

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

OP(C).No.968 of 2015 (O)

AS NO.29/2015 OF THE SUB COURT,KANNUR.

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PETITIONER:

K.C.KELAPPAN,S/O.CHATHU,AGED 76 YEARS,
BUSINESS,PRANAM RESTAURANT,
GRANT MARKETINT CENTRE,FORT ROAD, KANNUR.

BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.K.ASHIS

RESPONDENTS:

1. CHAKKAPAYYAN KUNNATH VANAJA MOHANAN,
D/O.KRISHNAN,AGED 63 YEARS,VANAMALA,
OPP.CENTRAL JAIL,KANATHUR TEMPLE ROAD,
PALLIKUNNU AMSOM DESOM,KANNUR,
THROUGH PA HOLDER, K.RAJAN,S/O.KANARAN,
AGED 78 YEARS,KV HOUSE, ATHIRAKAM,
P.O.MUNDAYAD,KANNUR-670594.
2. K.P.MOHANAN,S/O.MUKUNDAN (DIED,LEGAL REPRESENTATIVES
IMPLEADED AS RESPONDENTS 9 AND 10).
3. KOCHIPEEDIKAYIL KASIM,S/O.ABDUL RAHIMAN,
AGED 65 YEARS,SHABINA COTTAGE,
KANNOOKKARA,THANA P.O.,KANNUR-12.
4. VALIYA THANAL AYISHA,D/O.ABDULLA HAJI,
AGED 59 YEARS,SHABINA COTTAGE,THANA,
KANNOOKKARA,KANNUR-12.
5. MATTAKKAL SAMUEL JACOB,S/O.CHACKO SAMUEL,
AGED 78 YEARS,MATTAKKAL HOUSE,
P.O.KOYIPURAM,VIA CHENGANNUR.
6. ALISE JACOB,D/O.VARGHESE,AGED 72 YEARS,
MATTAKKAL HOUSE,P.O.KOYIPURAM,
VIACHENGANNUR (R5 AND R6 REPRESENTED BY
PA HOLDER KOCHIPEEDIKAYIL KASIM,
S/O.ABDUL RAHIMAN, AGED 65 YEARS,
SHABINA COTTAGE,KANNOOKKARA,THANA P.O.,KANNUR-12.

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7. PARAKKAT MAHAMOOD @KUNHIMARAKKARAKETH MUHAMMED,
S/O.MAMMU,AGED 70 YEARS,KHAIRUNNISA MANZIL,
P.O.KADALAYI,KANNUR-7.
 8. PUTHUKKUDI KHAIRUNNISA,D/O.AHAMED,AGED 54 YEARS,
KHAIRUNNISA MANZIL,P.O.KADALAYI,KANNUR-7.
 9. MAYOOR MOHAN,D/O.LATE K.P.MOHANAN,AGED 32 YEARS,
VANAMALA,P.O.PALLIKKUNNU,KANNUR.
 10. MADHUR MOHAN,S/O.LATE K.P.MOHANAN,AGED 30 YEARS,
VANAMALA,P.O.PALLIKKUNNU,KANNUR (R9 AND R10 THROUGH
PA HOLDER THIYATHILKANDY MUNDAYANKANDI SAVAN,
S/O.P.P.MAKKI,AGED 70 YEARS,P.P.HOUSE,
KANNUR CITY P.O.,KANNUR -3.
 11. VELIKKALAKATH JAMEELA,W/O.MUHAMMED SALI,
AGED 75 YEARS,FARIYALS,THAYATHERU,KANNUR-12.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 06-04-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

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APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:A TRUE COPY OF THE APPEAL MEMORANDUM IN A.S.NO.29/2015 OF
SUB COURT,KANNUR.

EXT.P2:A TRUE COPY OF I.A.NO.374/2015IN A.S.NO.29/2015 OF SUB COURT,
KANNUR.

EXT.P3:A TRUE COPY OF I.A.NO.373/2015 IN A.S. NO.29/2015 OF SUB COURT,
KANNUR.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

P. BHAVADASAN, J.

O.P.(C). No. 968 of 2015

Dated this the 6th day of April, 2015.

JUDGMENT

The petitioner, who is the plaintiff, instituted O.S. 370 of 2008 before Additional Munsiff Court, Kannur. The suit was decreed partially. The matter relates to the putting up of a structure in the plaint schedule property. The petitioner filed appeal so far as the decree went against him along with two applications, namely I.A. 374 of 2015 seeking certain interim reliefs and I.A. 373 of 2015 to stay the execution of the judgment of the lower court till the disposal of the appeal.

2. It is pointed out by the learned counsel for the petitioner that the third respondent has lodged a caveat before the lower appellate court and sought time to file counter and the matter is now posted for hearing. The petitioner apprehends that during the vacation, construction may commence, that may create unnecessary difficulties to

the petitioner. Therefore, it is prayed that there may be a direction to the lower appellate court to advance the case and pass orders on Exts. P2 and P3.

3. In the light of the fact that the applications were filed along with the appeal, the court below ought to have passed orders on the petitions.

4. In the nature of the order that is proposed to be passed in this Original Petition, notice to the respondents appears to be unnecessary.

The lower appellate court is directed to take up Exts. P2 and P3 applications on 10.04.2015 and pass orders thereon in accordance with law after hearing both sides.

Registry is directed to communicate the order to the court below forthwith.

sb.

P. BHAVADASAN,
JUDGE