

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

OP(C).No. 1095 of 2015 (O)

AGAINST THE JUDGMENT IN CMA 76/2014 of I ADDL.DISTRICT COURT,
ERNAKULAM DATED 31-01-2015
AGAINST THE ORDER IN I.A.No.4358/14 IN O.S.No.835/14 OF I
ADDL. MUNSIFF'S COURT, ERNAKULAM

PETITIONER:

SAROJINI, AGED 71 YEARS,
W/O.SUBRAHMANIAN, RESIDING AT SAROVARAM, 35/1990-A,
STADIUM LINK ROAD, KARANAKODAM.

BY ADVS.SRI.S.VINOD BHAT
SRI.LEGITH T.KOTTAKKAL

RESPONDENTS:

1. ANITHA,
W/O.SUDHEESH, SAROVARAM, 35/1990-A,
STADIUM LINK ROAD, KARANAKODAM, ERNAKULAM - 682 032.

2. NITHEESH,
S/O.SUDHEESH, SAROVARAM, 35/1990-A,
STADIUM LINK ROAD, KARANAKODAM, ERNAKULAM - 682 302.

3. NEETHU,
D/O.SUDHEESH, SAROVARAM, 35/1990-A,
STADIUM LINK ROAD, KARANAKODAM, ERNAKULAM - 682 302.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP(C).No. 1095 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1: COPY OF THE PLAINT O.S.835/2014 OF THE MUNSIFF'S COURT, ERNAKULAM.

EXT.P2: COPY OF THE PETITION I.A.4358/2014 IN O.S.835/2014 OF THE MUNSIFF'S COURT, ERNAKULAM.

EXT.P3: COPY OF THE COUNTER AFFIDAVIT IN I.A.4358/2014 IN O.S.835/2014 OF THE MUNSIFF'S COURT, ERNAKULAM.

EXT.P4: COPY OF THE ORDER DTD. 30.07.2014 IN I.A.4358/2014 IN O.S.835/2014 OF THE MUNSIFF'S COURT, ERNAKULAM.

EXT.P5: COPY OF THE APPEAL -CMA 76/2014 ON THE FILE OF DISTRICT COURT, ERNAKULAM.

EXT.P6: COPY OF THE JUDGMENT DTD. 10.11.2014 IN O.P.(C). 2596/2014 OF THE HIGH COURT OF KERALA.

EXT.P7: COPY OF THE JUDGMENT DTD. 31.01.2015 IN CMA.76/2014 OF THE DISTRICT COURT, ERNAKULAM.

RESPONDENTS' EXHIBITS :

NIL

// True Copy //

P.A. To Judge

DSV/20/5/15

B.KEMAL PASHA, J.

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O.P.(C). No.1095 of 2015

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Dated this the 20th day of May, 2015

J U D G M E N T

Heard the learned counsel for the petitioner.

2. The petitioner has come up by challenging Exhibit P7 judgment passed by the District Court, Ernakulam in C.M.A.No.76 of 2014. It seems that instead of seeking the relief of mandatory injunction, the relief of perpetual prohibitory injunction alone has been sought for in the suit. It is a fit case wherein the plaintiff can be permitted to amend the plaint for incorporating proper reliefs. The plaintiff is permitted to file an application seeking amendment of the plaint for incorporating the relief of mandatory injunction.

With the said observation, this Original Petition (Civil) is closed. It is made clear that on amending the suit as one for mandatory injunction, the plaintiff is entitled to file an interim application, if required, seeking temporary mandatory injunction. It is further made clear that Exhibit P7

O.P.(C).No.1095 of 2015

-: 2 :-

judgment will not stand in the way of the plaintiff to prefer
such an I.A. For temporary mandatory injunction.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/20/5/15