

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 12TH DAY OF MAY 2015/22ND VAISAKHA, 1937

OP(C).No.1122 of 2015 (O)

-----  
OS 503/2012 of PRL.SUB COURT, KOTTAYAM

PETITIONER:

-----

SOMA DOMINIC, AGED 47 YEARS  
W/O. V.V DOMINIC  
PERMANENTLY RESIDING AT VATTACHALIL HOUSE  
KANGAZHA VILLAGE, KANGAZHA KARA, KOTTAYAM  
PIN 686 541 AND NOW RESIDING AT FLAT NO.3-D  
DESAI HOMES, DD VASTHRAMAHAL, MARKET ROAD  
KOCHI-682 035

BY ADV. SRI.C.S.MANU

RESPONDENTS:

-----

1. E.M.MATHEW @ E.M MATHAN, AGED 73 YEARS  
S/O.MATHAN  
PERMANENTLY RESIDING AT ERATTATHANIKAL HOUSE  
KANGAZHA VILLAGE, KANGAZHA KARA, KOTTAYAM PIN 686 541

2. V.V ANNAMMA  
W/O. E.M MATHEW ALIAS E.M MATHAN  
PERMANENTLY RESIDING AT ERATTATHANIKAL HOUSE  
KANGAZHA VILLAGE, KANGAZHA KARA, KOTTAYAM  
PIN PIN 686 541

R1&2 BY ADV. SRI.V.B.PREMACHANDRAN

R1&2 BY ADV. SRI.S.MADHAVAN NAIR

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 12-05-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 1122 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1 TRUE COPY OF O.S NO 503 OF 2012 ON THE FILES OF THE SUB-COURT, KOTTAYAM FILED BY THE PETITIONER

EXHIBIT P2 TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE RESPONDENT IN O.S NO 503 OF 2012 ON THE FILES OF THE SUB-COURT, KOTTAYAM

EXHIBIT P3 TRUE COPY OF THE APPLICATION FOR RESTORATION OF THE SUIT FILED BY THE PETITIONER ON 28-04-2015 BEFORE THE VACATION COURT (DISTRICT COURT), KOTTAYAM IN O.S NO 503 OF 2012 ON THE FILES OF THE SUB-COURT, KOTTAYAM

EXHIBIT P-4 TRUE COPY OF THE APPLICATION FOR CONDONATION OF DELAY IN FILING THE APPLICATION FOR RESTORATION FILED BY THE PETITIONER ON 28-4-2015 BEFORE THE VACATION COURT(DISTRICT COURT), KOTTAYAM IN O.S NO 503 OF 2012 ON THEW FILES OF THE SUB COURT, KOTTAYAM

EXHIBIT P-5 TRUE COPY OF THE APPLICATION FOR INTERIM INJUNCTION FILED BY THE PETITIONER ON 28-4-2015 BEFORE THE VACATION COURT (DISTRICT), KOTTAYAM IN O.S NO 503 OF 2012 ON THE FILE S OF THE SUB-COURT, KOTTAYAM

EXHIBIT P-6 TRUE COPY OF THE I.A NO 657 OF 2015 FILED BY THE PETITIONER ON 28-04-2015 BEFORE THE VACATION COURT (DISTRICT COURT), KOTTAYAM IN O.S NO 503 OF 2012 ON THE FILES OF THE SUB COURT, KOTTAYAM

RESPONDENT(S)' EXHIBITS:

NIL

// TRUE COPY //

P.A TO JUDGE.

ALEXANDER THOMAS, J.

-----  
O.P(C).No.1122 Of 2015  
-----

Dated this the 12<sup>th</sup> day of May, 2015.

J U D G M E N T

The Original Petition is filed under visitorial jurisdiction conferred by Article 227 of the Constitution of India with the following prayers:

“(i) To direct the Vacation Court (District Court), Kottayam to take up, consider and pass orders on Exhibits P-3 to P-5 applications in accordance with law re-considering Exhibit P-6 application.

(ii) To allow Exhibit P-6 application in I.A.No.657 of 2015 on the files of the Vacation Court, Kottayam filed in O.S.No.503 of 2012 on the files of the Sub-Court, Kottayam.

(iii) To pass an order of injunction restraining the respondents from alienating or encumbering the plaint schedule property in O.S.No.503 of 2012 on the files of the Sub-Court, Kottayam till the disposal of Exhibit P-3 application for restoration of the suit, Exhibit P-4 application for condonation of delay and Exhibit P-5 application for interim injunction, filed before the Vacation Court, Kottayam.

(iv) To allow cost of the petition to the petitioner.”

2. Having heard Sri.C.S.Manu, learned counsel for the petitioner, and Sri.V.B.Premachandran, learned counsel for the respondents, it is ordered in the interest of justice that the court below

O.P(C).No.1122 Of 2015

concerned will take up Exts.P-3 to P-5 applications for consideration and pass orders thereof in accordance with law. It is common ground that earlier the defendants had undertaken before the court below concerned that they will not encumber or alienate the plaint schedule property in the above said original suit. In the circumstance, the court below will endeavour to pass orders on Exts.P-3 to P-5 applications without much delay. In the interest of justice it is further ordered that status quo in respect of the plaint schedule property in O.S.No.503 of 2012 on the file of the Sub Court, Kottayam, shall be maintained by the respondents until orders are passed, as directed above.

With these observations and directions this Original Petition stands finally disposed of.

ALEXANDER THOMAS,  
Judge.

bkn/-