

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

OP(C).No. 1170 of 2015 (O)

OS.NO.53/2015 OF MUNSIFF'S COURT, RANNI

PETITIONER/PLAINTIFF:

**ANNAMMA MATHEW, AGED 85 YEARS,
D/O.SARAMMA, NADUVILETHU HOUSE, KAIPATTOR MURI,
VALLICODE VILLAGE, KOZHENCHERRY TALUK.**

**BY ADVS.SRI.R.MANOJ
SMT.SINDHU MANOJ
SMT.LEKHA SANKAR
SMT.P.P.BLESSY MOL**

RESPONDENT(S)/DEFFENDANTS:

- 1. MARRY KUTTY,
NADUVILETHU HOUSE, KAIPATTOOR MURI, VALLICODE VILLAGE,
KOZHENCHERRY TALUK, PIN 689641.**
- 2. KOSHY GEORGE, S/O.LATE GEORGE, 155,
OLD COURT HOUSE ROAD, HYDE PARK, NEW YORK, 11040, USA.**
- 3. MARY ALGOO, D/O.LATE GEORGE, 10 WINGATE WAY,
GREEBROOK, NEW JERSY, O8812, USA.**
- 4. ELIZABETH GEORGE NINAN,
D/O.LATE GEORGE, 2325, QUEEN MORGAN LANE
LEWISE VILLE, TEXAS, 75056, USA.**
- 5. SARA OOMMEN,
D/O.LATE GEORGE, 179 SOUTH STREET, NEW HYDE PARK
NEW YORK -111040.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 08-06-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1:- TRUE COPY OF THE PLAINT WHICH WAS INITIALY PENDING BEFORE THE MUNSIFFS COURT, PATHANAMTHITTA AS OS NO 15/2011 AND WHICH WAS TRANSFERRED TO THE MUNSIFF'S COURT, RANNI AS OS NO 53/2015**
- P2:- TRUE COPY OF THE WRITTEN STATEMENT FILED IN OS NO 15/2011 OF THE MUNSIFFS COURT, PATHANAMTHITTA, (WHICH WAS LATER ON TRANSFERRED TO THE MUNSIFFS COURT, RANNI,AND RENUMBERED OS NO 53/2015)**
- P3:- TRUE COPY OF COUNTER CLAIM IN OS NO 15/2011 (WHICH WAS LATER ON TRANSFERRED TO THE MUNSIFF'S COURT, RANNI, AND RENUMBERED OS NO 53/2015)**
- P4:- TRUE COPY OF THE WRITTEN STATEMENT OF THE COUNTER CLAIM FILED IN OS NO 15/2011 DTD 28/1/2014**
- P5:- TRUE COPY OF THE IA NO 345/2015 ON THE FILES OF THE MUNSIFF'S COURT, RANNI**
- P6:- TRUE COPY OF THE APPLICATION FOR AMENDMENT TO AMEND IA NO 345/2015**
- P7:- TRUE COPY OF THE OBJECTIONS FILED TO IA NO 345/15 IN OS 53/15 BEFORE THE MC RANNI DTD 23/2/2015**
- P8:- TRUE COPY OF THE ORDERS OF THE MUNSIFFS COURT,RANNI IN IA NO 345/2015 IN OS NO 53/2015 DTD 10/4/2015**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B.KEMAL PASHA, J.

.....
O.P.(C) No.1170 of 2015
.....

Dated this the 8th day of June, 2015

J U D G M E N T

There is an attempt to prove the attestation of a Will dated 16.08.1984. According to the petitioner, one of the attesting witnesses died. The other attesting witnesses have produced an affidavit attested before a Notary Public affirming that he had not affixed his signature in the Will dated 16.08.1984. The said attesting witness was examined before the court below and there he was subjected to cross-examination. In cross- examination, it seems that he had identified his signature in the said Will dated 16.08.184 as one of the attestors. To prove the signature of the said attesting witness in the said Will, the petitioner filed

I.A.No.345/15 before the court below seeking the disputed Will to be subjected to an examination by an expert for verifying the signature of the said attesting witness. The court below has rightly found through Ext.P8 order that no fruitful purpose would be served in case the signature is subjected to an examination by an expert. What is required to be proved is attestation. Matters being so, there is absolutely nothing to interfere with Ext.P8 order passed by the court below. Hence, this original petition is devoid of merits, and is only to be dismissed, and I do so.

In the result, this Original Petition is dismissed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge