

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

OP(C).No. 3197 of 2013 (O)

JUDGMENT DATED 15-06-2013 IN OS 9/2006 OF SUB COURT, THODUPUZHA
.....

PETITIONER(S)/4TH DEFENDANT:

V.S.GOPINATHAN NAIR,
S/O.SANKARAN NAIR, VALLITHEKKEDATHU HOUSE,
ARAKKULAM P.O., THODUPUZHA.

BY ADV. SRI.UNNIKRISHNAN.V.ALAPATT

RESPONDENT(S)/PLAINTIFF/DEFENDANTS 1 TO 3:

1. SEKHARAN,
S/O.SIVARAMAN, KIZHAKKETHERUVATHIL HOUSE,
ARAKKULAM P.O., THODUPUZHA, PIN - 685 591.
2. SAMUEL,
S/O.MOSSES, PAREPURAKKAL HOUSE, KALIYAR P.O.,
VANNAPPURAM, THODUPUZHA - 686 682.
3. SALOMI,
W/O.SAMUEL, PAREPURAKKAL HOUSE, KALIYAR P.O.,
VANNAPPURAM, THODUPUZHA - 686 682.
4. ALEX JACOB,
S/O.CHACKO, PERMPALLIKKUNNEL HOUSE, LALAMKARA,
LALAM VILLAGE, PALA, PIN - 686 575.

R1 BY ADVS. SRI.C.K.VIDYASAGAR
SRI.P.CHANDY JOSEPH
R2 & R3 BY ADV. SRI.CIBI THOMAS

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 30-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

OP(C).No. 3197 of 2013 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1: TRUE COPY OF THE PLAINT OS.9/2006 ON THE FILES OF SUB COURT,
THODUPUZZHA.**

**EXHIBIT-P2: TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE
2ND RESPONDENT IN OS.9/2006 ON THE FILES OF SUB COURT,
THODUPUZZHA.**

EXHIBIT-P3: TRUE COPY OF THE DISPUTED AGREEMENT DATED 26.2.2004.

**EXHIBIT-P4: TRUE COPY OF THE I.A.NO.469/2013 IN O.S.NO.9/2006 ON THE FILES OF
THE SUB COURT, THODUPUZZHA.**

**EXHIBIT-P5: TRUE COPY OF THE ORDER DATED 15.6.2013 IN I.A.NO.469/2013 IN
O.S.NO.9/2006 ON THE FILES OF THE SUB COURT, THODUPUZZHA.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B.KEMAL PASHA, J.

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O.P.(C).No.3197 of 2013

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Dated this the 30th day of July, 2015

J U D G M E N T

Based on two agreements executed by the 1st defendant in favour of the plaintiff, a suit for specific performance was filed. Subsequently, it seems that by way of a *pendente lite* transaction, the 3rd defendant has obtained the property from the 1st defendant. It is alleged that by way of a subsequent *pendente lite* transaction, additional 4th defendant, who is the present petitioner herein, has obtained the property through a deed of exchange, from the 3rd defendant.

2. The first agreement executed by the 1st defendant in favour of the plaintiff on 31.01.2004 is admitted. The 1st defendant has denied the execution of the second agreement, allegedly executed on 26.02.2004. It seems that a huge amount has been allegedly parted with by the plaintiff to the 1st defendant through the second agreement. The present petitioner has filed I.A.No.469 of 2013 before the court below in O.S.No.9 of 2006 for sending the second agreement, allegedly executed by the 1st defendant in favour of the plaintiff, for examination by an expert. The court below has rightly dismissed the said I.A. through Exhibit P5 order.

3. On hearing the learned counsel for the petitioner and on a perusal of Exhibit P5 order, this Court is satisfied that there is absolutely nothing to interfere with Exhibit P5 order. The said order does not suffer from any illegality, irregularity or jurisdictional error. In fact, the additional 4th defendant in the suit, who is the petitioner herein, has no

locus standi to prefer such an I.A. The I.A. was rightly dismissed by the court below.

In the result, this Original Petition (Civil) is dismissed.

**B.KEMAL PASHA
JUDGE**

DSV/30/7/15