

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

OP(C).No. 3249 of 2013 (O)

AGAINST THE JUDGMENT IN CMA NO.78/2013 of ADDITIONAL DISTRICT COURT,
THRISSUR DATED 17.07.2013

PETITIONER(S):

JISHA BINU, AGED 35,
W/O.KURUTHUKULANGARAVEETIL BINU
CHOONDAL VILLAGE DESOM, TALAPPILLY TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT(S):

1. JOSEPH JOHNSON
S/O.CHOONDALVEETIL JOHNSON, CHOONDAL VILLAGE DESOM
TALAPPILLY TALUK 680001
2. JACOB SHAJI
S/O.CHOONDALVEETIL SHAJI
CHOONDAL VILLAGE DESOM, TALAPPILLY TALUK 680001.
3. THOMAS ZAKARIA
S/O.CHOONDALVEETIL ZAKARIA, CHOONDAL VILLAGE DESOM
TALAPPILLY TALUK 680001

R1 TO R 3 BY ADV. SRI.T.M.CHANDRAN
R1 TO R 3 BY ADV. SRI.S.SUJITH

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 26-05-2015, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 3249 of 2013 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: A TRUE COPY OF THE PLAINT IN O.S.NO.387 OF 2013 DATED 6.3.2013
ON THE FILE OF THE SUB COURT, THRISSUR.

EXT.P-2: A TRUE COPY OF THE COMMISSIONERS REPORT IN EXT.P1 SUIT DATED
19.3.2013

EXT.P-3: A TRUE COPY OF THE COMMISSIONERS REPORT IN EXT.P1 SUIT DATED
21.3.2013

EXT.P-4: A TRUE COPY OF THE ORDER PASSED BY THE PRL.SUB COURT, THRISSUR IN
I.A.NO.3537 OF 2013 IN O.S.NO.387 OF 2013 DATED 11.4.2013

EXT.P-5: A TRUE COPY OF THE JUDGEMENT IN CMA NO.78 OF 2013 DATED 17.7.2013
ON THE FILE OF THE ADDL.DISTRICT COURT, THRISSUR.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

A.HARIPRASAD, J.

O.P.(C) No.3249 of 2013

Dated this the 26th day of May, 2015

JUDGMENT

The plaintiff in O.S.No.387 of 2013 before the Sub Court, Thrissur is the petitioner. She challenges Ext.P5 judgment passed by the learned Additional District Judge in C.M.A.No.78 of 2013. The suit is one for permanent prohibitory and mandatory injunction reliefs. The apprehension of the petitioner is that the respondents/defendants were trying to cause hindrance to the user of plaint A schedule property by the petitioner and she also sought for a mandatory injunction to remove the shed unauthorisedly constructed in plaint B schedule property blocking the access to plaint A schedule property. The trial court as per Ext.P4 order allowed the application and a temporary injunction order was granted in favour of the petitioner. The respondents took up the matter in appeal to the lower appellate court. After considering the matter, the learned Judge allowed the appeal and dismissed the application filed by the petitioner.

2. Heard the learned counsel for the petitioner and the respondents.

3. As mentioned above, the suit is one for injunction reliefs. It was instituted in the year 2013. Considering the contentions raised by the

parties, I am of the view that no earthy purpose will be served to any of the parties by considering matters in the interlocutory application, especially when the suit itself can be disposed of on merits. Therefore, I am of the view that court below can be directed to dispose of the case on merits as early as possible. The trial court shall proceed with the matter untrammelled by any of the observations contained in Ext.P5 judgment passed by the lower appellate court.

In the result, the petition is disposed of with a direction to the trial court to dispose of the suit untrammelled by the observations contained in the impugned judgment as expeditiously as possible, at any rate within a period of six months from the date of receipt of a copy of this judgment.

A. HARIPRASAD, JUDGE.

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