

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

OP(C).No. 1461 of 2015 (O)

AS.NO.191/2014 OF DISTRICT COURT, ERNAKULAM

PETITIONER:

M.J THOMAS, AGED 69 YEARS,
S/O.JOSEPH, RESIDING AT MATHIRAPILLIL HOUSE,
THAIKKATTUKARA, CHOORNIKKARA, ALUVA.

BY ADVS.SRI.A.BALAGOPALAN
SRI.A.RAJAGOPALAN
SRI.M.N.MANMADAN
SRI.M.S.IMTHIYAZ AHAMMED
SMT.P.SEENA

RESPONDENTS:

1. M.J CHINNA ALIAS CHINNA ANTONY,
W/O ANTONY, BHATTATHIRIPAD ROAD, ERNAKULAM,
KALOOR.P.O, KOCHI-682017.
2. M.J.GEORGE,
S/O.JOSEPH, MATHIRAPPILLY HOUSE, KARTHEDAM
MALIPURAM.P.O, ERNAKULAM DISTRICT-682511.
3. M.J.BABY,
MATHIRAPPILLY HOUSE, KARTHEDAM, MALIPURAM.P.O
ERNAKULAM DISTRICT-82511.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 23-06-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 TRUE COPY OF THE PRELIMINARY DECREE DATED 6.10.2004 PASSED IN O.S.102/2003 BY THE SUBORDINATE JUDGE'S COURT,KOCHI
- P2, P2(A) AND P2(B):-TRUE COPY OF THE COMMISSION REPORT AND PLANS SUBMITTED BY THE ADVOCATE COMMISSIONER IN I.A.759/2005 IN O.S.102/2003
- P3 TRUE COPY OF THE FINAL DECREE PASSED BY THE SUBORDINATE JUDGES COURT,KOCHI IN I.A.759/2005 IN 102/2003 DATED 18/7/2013
- P4 TRUE COPY OF THE FINAL JUDGMENT PASSED BY THE SUBORDINATE JUDGES COURT KOCHI IN I.A.759/2005 IN O.S.102/2003 DATED 18.7.2013
- P5 TRUE COPY OF E.P.71/2014 IN O.S.102/2003 ON THE FILE OF SUBORDINATE JUDGE'S COURT,KOCHI
- P6 THE TRUE COPY OF OBJECTION FILED BY THE PETITIONER IN E.P.71/2014 IN O.S.102/2003
- P7 TRUE COPY OF THE MEMORANDUM OF APPEAL IN A.S.191/2014 ON THE FILE OF DISTRICT COURT,ERNAKULAM
- P8 THE TRUE COPY OF THE I.A.5538/2014 IN A.S.191/2014
- P9 THE TRUE COPY OF I.A.5539/2014 IN A.S.191/2014
- P10 TRUE COPY OF E.A.254/2014 IN E.P.71/2014 IN O.S.102/2003 FILED BEFORE THE SUB COURT,KOCHI
- P11 COPY OF THE SAID ORDER PASSED IN E.A.254/2014 IN E.P.71/2014 IN O.S.102/2003 DATED 17/12/2014 PASSED BY THE HONOURABLE SUB COURT,KOCHI.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B. KEMAL PASHA, J.

.....
O.P.(C) No.1461 of 2015
.....

Dated this the 23rd day of June, 2015

J U D G M E N T

~ ~ ~ ~ ~

The final decree passed in the matter has been challenged through A.S.No.191/2014 filed before the District Court, Ernakulam. In the said appeal, I.A.No.5538/2014 has been filed for getting the delay condoned. The said IA is Ext.P8. Along with that, Ext.P9 application as I.A.No.5539/2014 has also been filed seeking the stay of execution proceedings.

2. There was no challenge at the time of the passing of the preliminary decree. According to the appellant, he had expected a proper division in the final decree. Only later, he could find that an equitable division was not made in the final decree and thereby he is forced to challenge the final decree.

3. The District Court, Ernakulam is directed to

dispose of Exts.P8 and P9, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment. The proceedings in the execution before the court below shall stand stayed till then.

O.P.(Civil) is disposed of as above.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/23/06

// True Copy //

PA to Judge