

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 7TH DAY OF JULY 2015/16TH ASHADHA, 1937

OP(C).No. 1511 of 2015 (O)

(I.A.NO.1564/2015 IN OS.NO. 488/2013 OF ADDL.MUNSIFF COURT,CHERTHALA)

PETITIONER :

SUVARNAKUMARI, AGED 48 YEARS,
W/O.HARIDAS, KURIYAM VELIYIL, KANNAMKARA P.O.,
VARANAM MURI, THANNEERMUKKOM NORTH VILLAGE,
CHERTHALA TALUK.

BY ADV. SRI.B.PRAMOD

RESPONDENT :

BINDU,D/O.ANANDAVALLY,
CHIRAYIL VEETIL, CHERUVARANAM MURI,
THANNEERMUKKOM NORTH, CHERTHALA TALUK.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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OP(C).No. 1511 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. TRUE COPY OF THE PLAINT IN OS NO.488/2013 ON THE FILE OF THE
ADDL. MUNSIFF'S COURT, CHERTHALA.
- EXT.P2. TRUE COPY OF THE COMMISSION
- EXT.P3. TRUE COPY OF THE IA NO.1564/15 ALONG WITH ACCOMPANYING
AFFIDAVIT FILED IN OS 488/2013 ON THE ADDL. MUNSIFF'S COURT,
CHERTHALA.
- EXT.P4. TRUE COPY OF THE ORDER DATED 10/4/2015 IA NO.1564/15 IN OS
488/2013 ON THE FILE OF THE ADDL. MUNSIFF'S COURT,
CHERTHALA.
- EXT.P5. TRUE COPY OF THE ORDER DATED 16/6/2015 IA NO.1564/15 IN OS
488/2013 ON THE FILE OF THE ADDL. MUNSIFF'S COURT,
CHERTHALA.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

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B.KEMAL PASHA, J.

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O.P.(C).No.1511 of 2015

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Dated this the 7th day of July, 2015

J U D G M E N T

It seems that an order of status-quo was passed by the court below. According to the plaintiff, who is the petitioner in the suit, the defendant has deliberately violated the order of status-quo and proceeded with the constructions. That was brought to the notice of the court below through an I.A. filed under Order 39 Rule 2A CPC. Disregarding that, the violations continued and finally, the petitioner has preferred an I.A. seeking restoration of status-quo. It seems that the Commissioner's report clearly revealed the violation of the order of status-quo. Consequently, the court below has allowed Exhibit P3 I.A. and passed Exhibit P5 order, thereby passing an order of temporary mandatory injunction directing the respondent herein to restore the original position in respect of the plaint schedule Item No. 2 property

as on the date of institution of the suit. It seems that strangely the court below has given two months time to the respondent to remove such constructions.

2. When the court below has found that the respondent has violated the order of status-quo passed by the court below, the court below ought to have passed orders on the I.A. filed under Order 39 Rule 2A and also directed the respondent to restore the status-quo ante forthwith. Unnecessarily, two months have been granted to the respondent to remove the constructions.

In the result, this Original Petition (Civil) is allowed by directing the respondent herein to remove the constructions made in violation of the order of status-quo, forthwith. On the failure of the respondent to do so, the petitioner is allowed to remove the constructions, and cost of the same can be recovered from the respondent.

Sd/-

B.KEMAL PASHA
JUDGE