

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

OP(C).No. 1520 of 2015 (O)

**AGAINST THE ORDERS IN E.A.NO.16 OF 2015 IN E.A.NO.12 OF 2015 IN E.P.NO.16
OF 2013 AND E.A.NO.17 OF 2015 IN E.A.NO.12 OF 2015 IN E.P.NO.16 OF 2013 IN
O.S.NO.59 OF 2007 OF THE MUNSIF MAGISTRATE COURT, MANNARKKAD
DATED 06.06.2015**

PETITIONER(S)/PETITIONER/CLAIM PETITIONER :

**PAPPA,
D/O.LATE THENAN, RESIDING AT SHOLAYUR AMOSOM DESOM,
MANNARKKAD TALUK, PALAKKAD DISTRICT.**

**BY ADVS.SRI.K.M.SATHYANATHA MENON
SMT.KAVERY S THAMPI**

RESPONDENT(S)/RESPONDENTS :

- 1. SHUNMUGASUNDARAM,
S/O.LATE SANDHANAM, RESIDING AT VI/125 P.O, SRK SCHOOL,
KAMARAJ NAGAR, PERIYANAIPALAYAM, COIMBATORE,
TAMIL NADU STATE, PIN- 641 020.**
- 2. RAMALINGAM,
S/O.LATE SANDHANAM, RESIDING AT 27 A KAMBAR STREET,
VELLALUR, COIMBATORE, TAMIL NADU STATE, PIN- 641 111.**
- 3. KANJANA,
D/O.LATE SANDHANAM, KASHIPALAYAM, 2ND STREET,
103 SASTHRI NAGAR, EROADE, TAMIL NADU STATE, PIN- 638 001.**

BY ADV. SRI.T.M.ABDUL LATHEEF

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 29-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE E.A.NO.7 OF 2015 IN E.P.NO.16 OF 2013 IN O.S.NO.59 OF 2007 ON THE FILE OF THE COURT OF MUNSIF-MAGISTRATE, MANNARKKAD DATED 11.02.2015.

EXHIBIT P2: TRUE COPY OF THE OBJECTION DATED 21.03.2015 IN E.A.NO.7 OF 2015 IN E.P.NO.16 OF 2013 IN O.S.NO.59 OF 2007 ON THE FILE OF THE COURT OF MUNSIF-MAGISTRATE, MANNARKKAD.

EXHIBIT P3: TRUE COPY OF E.A.NO.12 OF 2015 IN E.P.NO.16 OF 2013 IN O.S.NO.59 OF 2007 ON THE FILE OF THE COURT OF MUNSIF-MAGISTRATE, MANNARKKAD DATED 07.03.2015.

EXHIBIT P4: TRUE COPY OF E.A.NO.16 OF 2015 IN E.A.NO.12 OF 2015 IN O.S.NO.59 OF 2007 ON THE FILE OF THE COURT OF MUNSIF-MAGISTRATE, MANNARKKAD DATED 10.04.2015.

EXHIBIT P5: TRUE COPY OF E.A.NO.17 OF 2015 IN E.A.NO.12 OF 2015 IN O.S.NO.59 OF 2007 ON THE FILE OF THE COURT OF MUNSIF-MAGISTRATE, MANNARKKAD DATED 10.04.2015.

EXHIBIT P6: TRUE COPY OF OBJECTION IN E.A.NO.12 OF 2015 IN O.S.NO.59 OF 2007 ON THE FILE OF THE COURT OF MUNSIF-MAGISTRATE, MANNARKKAD DATED 28.03.2015.

EXHIBIT P7: TRUE COPY OF OBJECTION IN E.A.NO.16 OF 2015 IN O.S.NO.59 OF 2007 ON THE FILE OF THE COURT OF MUNSIF-MAGISTRATE, MANNARKKAD DATED 22.05.2015.

EXHIBIT P8: TRUE COPY OF OBJECTION IN E.A.NO.17 OF 2015 IN O.S.NO.59 OF 2007 ON THE FILE OF THE COURT OF MUNSIF-MAGISTRATE, MANNARKKAD DATED 22.05.2015.

EXHIBIT P9: TRUE COPY OF ORDER DATED 06.06.2015 IN E.A.NO.16 OF 2015 IN E.A.NO.12 OF 2015 IN O.S.NO.59 OF 2007 ON THE FILE OF THE COURT OF MUNSIF-MAGISTRATE, MANNARKKAD.

EXHIBIT P10: TRUE COPY OF ORDER DATED 06.06.2015 IN E.A.NO.17 OF 2015 IN E.A.NO.12 OF 2015 IN O.S.NO.59 OF 2007 ON THE FILE OF THE COURT OF MUNSIF-MAGISTRATE, MANNARKKAD.

EXHIBIT P11: TRUE COPY OF COMMISSION REPORT IN O.S.NO.7 OF 2015 ON THE FILE OF THE COURT OF MUNSIF-MAGISTRATE, MANNARKKAD.

RESPONDENT(S)' EXHIBITS :

- EXT.R1(A): TRUE COPY OF THE JUDGMENT DATED 24.02.1998 PASSED BY THE MUNSIF-MAGISTRATE COURT, MANNARKKAD IN O.S.NO.87 OF 1995.
- EXT.R1(B): TRUE COPY OF THE DECREE DATED 24.02.1998 PASSED BY THE MUNSIF-MAGISTRATE COURT, MANNARKKAD IN O.S.NO.87 OF 1995.
- EXT.R1(C): TRUE COPY OF THE JUDGMENT DATED 04.10.2010 PASSED BY THE MUNSIF-MAGISTRATE COURT, MANNARKKAD IN O.S.NO.49 OF 2007.
- EXT.R1(D): TRUE COPY OF THE JUDGMENT DATED 08.10.2007 PASSED BY THE MUNSIF-MAGISTRATE COURT, MANNARKKAD IN O.S.NO.59 OF 2007.
- EXT.R1(E): TRUE COPY OF THE COMMON ORDER DATED 17.07.2008 PASSED BY THE MUNSIF-MAGISTRATE COURT, MANNARKKAD IN I.A.NOS.900/2007 AND 901/2007 IN O.S.NO.59 OF 2007.
- EXT.R1(F): TRUE COPY OF THE JUDGMENT PASSED BY THIS HONOURABLE COURT IN W.P.(C).NO.4637 OF 2013 DATED 06.06.2013.
- EXT.R1(G): TRUE COPY OF THE ORDER DATED 12.12.2012 PASSED BY THIS HONOURABLE COURT IN BAIL.APPL.NO.9211 OF 2012.
- EXT.R1(H): TRUE COPY OF THE ORDER DATED 12.12.2012 PASSED BY THIS HONOURABLE COURT IN BAIL.APPL.NO.9247 OF 2012.
- EXT.R1(I): TRUE COPY OF THE JUDGMENT PASSED BY THIS HONOURABLE COURT IN O.P.(C) NO.2367 OF 2014 DATED 21.10.2014.
- EXT.R1(J): TRUE COPY OF THE DEMAND NOTICE DATED 08.07.2014 ISSUED BY THE SHOLAYAR GRAMA PANCHAYAT.
- EXT.R1(K): TRUE COPY OF THE CASH RECEIPT NO.2410510 DATED 08.05.2015.
- EXT.R1(L): TRUE COPY OF THE DEMAND NOTICE DATED 08.07.2014 ISSUED BY THE SHOLAYAR GRAMA PANCHAYAT.
- EXT.R1(M): TRUE COPY OF THE CASH RECEIPT NO.2410511 DATED 08.05.2015.
- EXT.R1(N): TRUE COPY OF THE TAX RECEIPT NO.K 7721871 DATED 18.04.2015

//TRUE COPY//

P.A.TO JUDGE.

B. KEMAL PASHA, J.

.....
O.P.(C) No.1520 of 2015
.....

Dated this the 29th day of June, 2015

J U D G M E N T

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Petitioner has come up by challenging Ext.P9 order passed by the court below in EA.16/2015 in EA.12/2015 in EP.16/2013. Through the EA, the petitioner has sought for getting one Arumugham impleaded in the EA. The court below has dismissed the said EA through Ext.P9, which is under challenge.

2. The respondents have filed a detailed counter and produced various documents. The said Arumugham is none other than the 2nd defendant in the suit. He continues to be a party in the EP. It seems that he has made all sorts of obstructions to the execution of the decree and ultimately, it seems that the present petitioner has come forward with the obstruction. As rightly found by the court below, the request is nothing but to implead the 2nd defendant in the

suit as a party to the EA. When the said 2nd defendant continues to be a party to the EP, again he need not be impleaded in the EA. What all arguments the petitioner can forward is able to be forwarded in the matter as against the said 2nd defendant also.

With the said observations, this O.P.(Civil) is closed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/29/06

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PA to Judge