

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

OP(C).No. 1541 of 2015 (O)

OS 83/2014 OF MUNSIFF'S COURT, THODUPUZHA

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PETITIONER(S):

1. ALEYAMMA VARGHESE, AGED 78,
W/O.LATE OOMMEN VARGHESE, CHIRAYIL HOUSE,
RAJAGIRI P.O., KALAMASSERY, NOW RESIDING T 48/1893B,
KUZHIMALA ROAD, EDAPPALLY P.O., COCHIN 682 024,
EDAPPALLY NORTH VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.
2. SHYLAJA VARGHESE,
AGED 45, D/O.LATE OOMMEN VARGHESE, CHIRAYIL HOUSE,
RAJAGIRI P.O., KALAMASSERY, NOW RESIDING T 48/1893B,
KUZHIMALA ROAD, EDAPPALLY P.O., COCHIN 682 024,
EDAPPALLY NORTH VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.
3. SHIRLY VARGHESE,
AGED 49, D/O.LATE OOMMEN VARGHESE, CHIRAYIL HOUSE,
RAJAGIRI P.O., KALAMASSERY, NOW RESIDING T 48/1893B,
KUZHIMALA ROAD, EDAPPALLY P.O., COCHIN - 682 024,
EDAPPALLY NORTH VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.
4. MATHEWS VARGHESE,
AGED 53, D/O.LATE OOMMEN VARGHESE, CHIRAYIL HOUSE,
RAJAGIRI P.O., KALAMASSERY, NOW RESIDING T 48/1893B,
KUZHIMALA ROAD, EDAPPALLY P.O., COCHIN 682 024,
EDAPPALLY NORTH VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.
5. ELIZABETH VARGHESE,
AGED 56, D/O.LATE OOMMEN VARGHESE, CHIRAYIL HOUSE,
RAJAGIRI P.O., KALAMASSERY, NOW RESIDING T 48/1893B,
KUZHIMALA ROAD, EDAPPALLY P.O., COCHIN 682 024,
EDAPPALLY NORTH VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT

BY ADVS.SRI.K.C.ELDHO
SRI.JIJO THOMAS
SRI.ANEESH JAMES

msv/

OP(C).No. 1541 of 2015 (O)

RESPONDENT(S):

1. RAMAN DAMODHARAN,
S/O.RAMAN, AGED 65, VALLADIYIL HOUSE,
VENMATTOM, VANNAPPURAM P.O., VELLILAMPARAPPU KARA,
VANNAPPURAM VILLAGE, THODUPUZHA TALUK,
IDUKKI DISTRICT, PIN - 685 608.
2. RAMAN RAGHAVAN,
S/O.RAMAN, AGED 59, VALLADIYIL HOUSE,
VENMATTOM, VANNAPPURAM PO, VELLILAMPARAPPU KARA,
VANNAPPURAM VILLAGE, THODUPUZHA TALUK,
IDUKKI DISTRICT. PIN - 685 608.

BY ADVS. SRI.C.K.VIDYASAGAR
SRI.P.CHANDY JOSEPH

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 01-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

OP(C).No. 1541 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1-TRUE COPY OF THE PLAINT IN O.S 83 OF 2014 ON THE FILE OF THE
MUNSIFF COURT, THODUPUZHA.**

**EXHIBIT-P2-TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE DEFENDANTS
IN O.S 83 OF 2014 ON THE FILE OF THE MUNSIFF COURT, THODUPUZHA.**

**EXHIBIT-P3-TRUE COPY OF THE ORDER DATED 11/11/2014 OF THE MUNSIFF COURT,
THODUPUZHA IN O.S 83 OF 2014.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msv/

A.MUHAMED MUSTAQUE, J.

O.P.(C) No.1541 of 2015

Dated this the 1st day of September, 2015

JUDGMENT

Petitioners are the plaintiffs in a suit for recovery of possession and injunction, have approached this Court challenging Ext.P3 order.

2. The petitioners grievance is that there being no issue relating to the title, the court below framed an issue regarding title and directed the petitioners to pay the court fee based on title. This Court is of the view that since the issue has been framed without affording an opportunity of hearing, a reasoned order is necessary as to the issue framed and liability of the petitioners to pay the court fee. The court is having a duty under Order XIV Rule 5 of the Civil Procedure Code to hear the parties as to the framing of issue.

In that view of the matter, framing of issue No.2 in the impugned order is set aside. The court below is directed to reconsider the matter after hearing the petitioners and decide whether the issue No.1 to be framed. It is also open for the court below to consider any additional issues based upon the pleadings and hearing the parties. All other issues are retained.

The original petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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