

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

OP(C).No. 1607 of 2015 (O)

OS.NO.140/2010 OF SUB COURT, THIRUVALLA

PETITIONER :

DAISY MATHEW, AGED 56 YEARS, W/O.K.M.MATHEW,
PUTHATHAYIL THEKKEPARAMBIL, ANICADU P.O.,
KOTTAYAM DISTRICT.

BY ADVS.SRI.P.HARIDAS
SRI.P.C.SHIJIN

RESPONDENT(S):

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1. JOHNSON MATHEWS, AGED 47 YEARS,
S/O.LATE VARGHESE MATHEW, PUTHENPARAMBIL HOUSE,
ANICADU MURI, ANICADU P.O, ANICADU VILLAGE,
MALLAPPALLY TALUK. PIN -689 585.
 2. THANKAMMA MATHEW, AGED 70 YEARS, W/O.LATE VARGHESE MATHEW,
PUTHENPARAMBIL HOUSE, ANICADU MURI, ANICADU P.O.,
ANICADU VILLAGE, MALLAPPALLY TALUK. PIN- 689 585.
 3. MANAGER, SOUTH INDIAN BANK,
NEDUMKUNNAM BRANCH, NEDUMKUNNAM, PIN -686 542.
 4. L.I.C OF INDIA, REPRESENTED BY
BRANCH MANAGER, THIRUVALLA P.O, PIN- 689 101.
 5. L.I.C. OF INDIA, REPRESENTED BY BRANCH MANAGER,
CHANGANACHERRY TALUK. PIN -686 101
 6. POSTMASTER, POST OFFICE,
KANGAZHA P.O, CHANGANACHERRY TALUK, PIN -686 541.
 7. CHAMPAKARA SERVICE CO-OPERATIVE BANK LTD.,
CHAMPAKARA, KARUKACHAL, REPRESENTED BY ITS SECRETARY,
CHAMPAKARA, KARUKACHAL P.O., CHANGANACHERRY TALUK,
PIN -686 540.
 8. ANICADU SERVICE CO-OPERATIVE BANK LTD.,
REPRESENTED BY ITS SECRETARY, NOOROMMAVU P.O, ANICADU,
MALLAPPALLY, PIN -689 585.

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9. MANAGER,
PADAVATHU FINANCE, KARUKACHAL P.O,
CHANGANACHERRY TALUK, PIN -686 101.

R1 BY ADV. SRI.K.N.RADHAKRISHNAN(THIRUVALLA)

R3 BY SRI.GEORGE VARGHESE,SC,SOUTH INDIAN BANK
ADVS. SRI.K.K.JOHN

SRI.ASISH K. JOHN

R4 & R5 BY ADV. SRI.P.B.SAHASRANAMAN

R6 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1- TRUE COPY OF THE PLAINT IN OS NO.140/2010 BEFORE THE SUB COURT,
THIRUVALLA DATED JULY 2010
- P2- TRUE COPY OF THE WRITTEN STATEMENT IN OS NO.140/2010 BEFORE THE
SUB COURT, THIRUVALLA DATED 25.1.2011
- P3- TRUE COPY OF THE IA NO.312/2015 IN OS NO.140/2015 BEFORE THE SUB
COURT, THIRUVALLA DATED 4.3.2015
- P4- TRUE COPY OF THE OBJECTION IN IA NO.312/2015 IN OS NO.140/2010
BEFORE THE SUB COURT, THIRUVALLA DATED 5.3.2015
- P5- TRUE COPY OF THE ORDER IN IA NO.312/2015 IN OS NO.140/2010 BEFORE
THE SUB COURT, THIRUVALLA DATEDE 9.3.2015

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.1607 of 2015

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Dated this the 30th day of July, 2015

J U D G M E N T

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

2. It seems that the petitioner wanted to prove the plaint, written statement, judgment and decree in O.S.No.156 of 1993 of the Munsiff's Court, Thiruvalla, in order to show that his mother and father were in loggerheads. The said suit was one for maintenance. The petitioner wanted to show that there was no possibility for the execution of a will by his father. A will has been propounded in the present suit for partition, by the adverse party. The petitioner wanted to show that there were no favourable circumstances for the execution of a will. On

hearing the learned counsel for the petitioner and considering the facts and circumstances of the case, this Court is of the view that the court below ought to have given an opportunity to the petitioner to produce and prove the plaint, written statement and judgment and decree in the said suit.

In the result, this Original Petition (Civil) is allowed and Exhibit P5 order stands set aside. The court below is directed to give an opportunity to the petitioner to prove the plaint, written statement, judgment and decree in O.S.No.156 of 1993 of the Munsiff's Court, Thiruvalla, in the present suit for partition.

Sd/-

B.KEMAL PASHA
JUDGE