

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

OP(C).No. 1679 of 2015 (O)

**I.A. NO.3465/2012 AND I.A. NO.3466/2012 IN O.S. NO.366/2012 OF
MUNSIFF COURT, VARKALA.**

.....

PETITIONER(S):

**SYAMAPRASAD,
S/O. SREEDHARAN, KALLUVILA VEEDU,
CHERUNNIYOOR VILLAGE,
DALAVAPURAM DESOM.**

BY ADV. SRI.P.R.VENKETESH.

RESPONDENT(S):

- 1. MURALEEDHARAKURUP,
S/O. GOPALAKURUP, T.C.NO.2/279/3, MRA 771,
DOCTOR'S GARDENS, ULLOOR-695 011.**
- 2. MANOHARAN,
S/O. KOCHAPPI, VALAKKOTTUMALA VEEDU,
MANAMBOOR DESOM AND VILLAGE, PIN-695 611.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 15-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1: TRUE COPY OF PLAINT IN OS NO.366/2012 FILED BEFORE THE COURT OF MUNSIF, VARKALA FILED BY THE 1ST RESPONDENT.
- EXHIBIT P2: TRUE COPY OF I.A.NO.2691/2012 BEFORE THE COURT OF THE MUNSIF, VARKALA BY THE 1ST RESPONDENT.
- EXHIBIT P3: TRUE COPY OF AD-INTERIM ORDER OF INJUNCTION ON 24.09.2012 IN IA NO.2691/2012 PASSED BY THE COURT OF MUNSIF, VARKALA.
- EXHIBIT P4: TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONER IN OS NO.366/2012 BEFORE THE COURT OF MUNSIF, VARKALA.
- EXHIBIT P5: TRUE COPY OF THE I.A.NO.3141/2013 FILED IN OS NO.366/2012 BEFORE THE COURT OF MUNSIF, VARKALA.
- EXHIBIT P6: TRUE COPY OF THE ORDER IN IA NO.3141/2013 DATED 30.03.2015 OF THE COURT OF MUNSIF, VARKALA.

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

B. KEMAL PASHA, J.

.....
O.P.(C) No.1679 of 2015
.....

Dated this the 15th day of July, 2015

J U D G M E N T

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Heard learned counsel for the petitioner.

2. What is under challenge is an order of temporary injunction passed *ex-parte* at first, which was subsequently made absolute under Order XXXIX Rule 3A CPC. It seems that the said exercise was done in the year 2012. In the year 2013, the petitioner had preferred a counter in respect of the injunction application and once again wanted the court below to hear the matter. As the court below was not willing, Ext.P5 IA for reviewing the earlier order was filed. The said IA happened to be dismissed. Precisely, what is under challenge herein is the order of temporary injunction passed by the court below. In such case, the course open to the petitioner is to file an appeal under Order XLIII Rule 1 (r) CPC. When that course is open to the petitioner, the

supervisory jurisdiction of this Court under Article 227 of the Constitution of India cannot be invoked.

With the liberty to the petitioner to file an appeal under Order XLIII Rule 1(r) CPC, this O.P.(Civil) is disposed of. The proceedings before the court below on the IA filed under Order XXXIX Rule 2A shall stand stayed for two weeks for enabling the petitioner to approach the appellate court.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/15/07

// True Copy //

PA to Judge