

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. 1785 of 2015 (O)

I.A. NO.380/2015 IN O.S. NO.131/2015 OF MUNSIF COURT, ALUVA.
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PETITIONER/PLAINTIFF:

**ALUVA MUNICIPALITY,
MUNICIPAL OFFICE, ALUVA,
REPRESENTED BY ITS SECRETARY.**

**BY ADVS.SRI.V.M.KURIAN,
SRI.MATHEW B. KURIAN,
SRI.K.T.THOMAS.**

RESPONDENT/2ND DEFENDANT:

**K.V. SARALA, AGED 60 YEARS,
DAUGHTER OF VISWAMBARAN NAIR, FORMER PRESIDENT,
SREEKRISHNA SWAMY KSHETRA UPADESAKA SAMITHY,
ADHOC COMMITTEE, SREEKRISHNA SWAMY TEMPLE,
BANK JUNCTION, ALUVA, RESIDING AT KUNDALA VEEDU,
MANAPPURAM ROAD, THOTTAKKATTUKARA P.O., ALUVA -683 103.**

**BY SRI.S.SREEKUMAR, SENIOR ADVOCATE.
ADVS. SMT.SANJANA R.NAIR,
SMT.V.SREEJA,
SRI.MANOJ RAMASWAMY.**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 30-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

OP(C).No. 1785 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1. COPY OF THE PLAINT IN OS. NO.131/2015.

EXHIBIT P2. COPY OF THE IA. NO.380/2015 FILED BY THE PETITIONER.

EXHIBIT P3. COPY OF THE COUNTER AFFIDAVIT FILED BY THE 2ND RESPONDENT.

EXHIBIT P4. COPY OF THE ORDER DATED 10.04.2015 IN IA. NO.380/2015 IN
OS. NO.131/2015 OF MUNSIF COURT, ALUVA.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

B.KEMAL PASHA, J.

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O.P.(C).No.1785 of 2015

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Dated this the 30th day of July, 2015

J U D G M E N T

The petitioner is challenging Exhibit P4 order in I.A.No.380 of 2015 passed by the court below in O.S.No.131 of 2015. It seems that the effect of Exhibit P4 is just like the disposal of the suit as such, and that the court below has decided the main issue involved in the suit through Exhibit P4 order. The said order could only be confined to the disposal of the I.A. alone and it should not have reflected a decision on the matters in controversy in the suit which had to be settled ultimately through the final judgment.

In the result, this Original Petition (Civil) is disposed of by directing the court below to dispose of the suit, quite

untrammelled by any of the observations made by the court below in Exhibit P4 order. It seems that the respondents have undertaken that the respondents will not alienate the property until further orders. The said undertaking is recorded. A charged decree has been sought for. All the observations and findings entered by the court below in paragraph 14 of Exhibits P4 order, are set aside, and the issue is left open.

Sd/-

B.KEMAL PASHA
JUDGE

DSV/30/7/15