

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

OP(C).No. 1813 of 2015 (O)

**AGAINST THE ORDER/JUDGMENT IN OS 348/2011 of MUNSIF COURT,
KUTHUPARAMBA DATED 27-06-2015**

PETITIONER(S)/PLAINTIFF:

**KADANKODAN BALAKRISHNAN NAMBIAR AGED 57 YEARS
S/O. RAIRU NAMBIAR, AGRICULTURIST, CHAVASSERY AMSOM
VELIYAMBRA DESOM, P.R. NAGAR P.O., KANNUR - 670 702.**

BY ADV. SRI.R.SURENDRAN

RESPONDENT(S)DEFENDANT:

**PUNNATHANATH JOLAL
S/O. JACOB, KARATTE INSTRUCTOR, KEEZHUR AMSOM
34-PUNNAD DESOM, P.O. PUNNAD, KANNUR -670 703.**

R1 BY ADV. SRI.C.P.PEETHAMBARAN

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 29-10-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1-TRUE COPY OF THE PLAINT IN O.S 348/2011 ON THE FILE OF THE MUNSIFF COURT, KUTHUPARAMBA.

EXHIBIT-P2-TRUE COPY OF THE JUDGMENT DATED 11/12/2006 IN O.S 369/1999 OF MUNSIFF COURT, KUTHUPARAMBA.

EXHIBIT-P3-TRUE COPY OF THE JUDGMENT DATED 06/06/2014 IN A.S 38/2007 OF PRINCIPAL SUB COURT, THALASSERY.

EXHIBIT-P4-TRUE COPY OF THE AFFIDAVIT FILED IN SUPPORT OF I.A 1235 OF 2015 IN O.S 348/20121 ON THE FILE OF THE MUNSIFF COURT, KUTHUPARAMBA.

EXHIBIT-P5-TRUE COPY OF THE ORDER DATED 27/06/2015 IN I.A 1235/2015 I O.S 348/2011 ON THE FILE OF THE MUNSIFF COURT, KUTHUPARAMBA.

RESPONDENT(S)' EXHIBITS

NIL

R.AV

//True Copy//

PA to Judge

K.ABRAHAM MATHEW, J

O.P.(C).NO.1813 OF 2015

Dated this the 29th day of October 2015

J U D G M E N T

Petitioner is the plaintiff in OS.348 of 2011 of Munsiff Court, Kuthuparamba. The respondent had filed OS.369 of 1999 in the very same court for declaration of his title and possession of the immovable properties. The suit was dismissed. AS.38 of 2009 filed by him was dismissed. He has filed RSA.256 of 2015 in this court. The subject matter of OS.348 of 2011 is the same though the prayer is for damages only. The entitlement of the petitioner to damages depends upon his title to plaint schedule property. He filed Ext.P4 application to stay OS.348 of 2011 under Section 10 CPC. By Ext.P5 order the learned Munsiff has dismissed it.

2. Heard.

3. In the earlier suit the court has found that the respondent has no title to the property. In the second appeal if it is found that he has title to the property and in the present suit if the Munsiff finds that the petitioner has title to the property the decisions will be conflicting. So it

appears that it is only proper that the second suit is stayed till the disposal of the second appeal in the earlier suit.

In the result, this O.P. is allowed. Ext.P5 order is set aside. OS.348 of 2011 is stayed till the disposal of RSA.256 of 2015.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

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PA to Judge