

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

OP(C).No. 2080 of 2015 (O)

OS.NO. 788/2015 OF IST ADDITIONAL MUNSIF COURT, ERNAKULAM

PETITIONER/DEFENDANT :

**SINU SEBASTIAN, AGED 42 YEARS, S/O.RAPHAEL,
MUZHANGUMTHARA HOUSE, VAIKOM MUHAMMED BASHEER ROAD,
NEAR LAKE SHORE HOSPITAL, NETTOOR-682 040**

**BY ADVS.SRI.V.S.BABU GIREESAN
SRI.BENHUR JOSEPH MANAYANI**

RESPONDENT/PLAINTIFF :

**MARY LILLY, AGED 56 YEARS, W/O.VICTOR,
CHAKKALAKKAL HOUSE, PULLEPPADY,
KOCHI-18.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

OP(C).NO.2080/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE PLAINT IN O.S.788/2015 OF THE 1ST ADDL.MUNSIFF'S COURT, ERNAKULAM DATED 23/6/15.**
- P2 COPY OF THE INJUNCTION APPLICATION NO.4674/2015 IN O.S.NO.788/2015 DATED 23/6/2015.**
- P3 COPY OF THE ORDER IN I.A.NO.4674/15 DATED 25/6/2015.**
- P4 COPY OF THE COUNTER AFFIDAVIT AND PETITION TO VACATE THE EX-PARTE ORDER OF INJUNCTION DATED 11/8/15**
- P5 COPY OF THE I.A.NO.6337/2015 FILED TO ADVANCE THE O.S.NO.788/2015 DATED 11/8/15**

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.2080 of 2015

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Dated this the 21st day of August, 2015

J U D G M E N T

Heard the learned counsel for the petitioners.

2. What is under challenge is Exhibit P3 order of temporary injunction passed by the court below. The learned counsel for the petitioner has pointed out that even though it may appear as an order of temporary injunction, in effect, it is an order of temporary mandatory injunction. What ever it is, when the said order has been passed under Order XXXIX Rule 1 CPC, it is appealable under Order XLIII Rule 1 (r) CPC. Therefore, this Court cannot exercise the supervisory jurisdiction under Article 227 of the Constitution of India.

3. The petitioner may move the vacation court being

an Appellate Court through a C.M.A. and apply for modification of the order.

This Original Petition (Civil) is disposed of as above.

Issue copy today itself.

Sd/-

B.KEMAL PASHA
JUDGE

DSV/21/8/15