

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

OP(C).No. 2114 of 2015 (O)

OS 73/2014 OF MUNSIF COURT, KOTTARAKKARA.

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PETITIONER(S)/RESPONDENT 2 & 3/ DEFENDANTS 2 & 3:

1. MATHAIKUTTY, S/O.ABRAHAM,
KUZHIVILA PUTHEN VEEDU, PANAVELI MURI,
VETTIKKAVALA VILLAGE, KOTTARAKKARA TALUK.
2. RAJAN, S/O.OOMMACHAN, PRADEEKSHA,
PADINJARE VEETIL, VALAKOM MURI,
VALAKOM VILLAGE, KOTTARAKKARA TALUK.

BY ADVS.SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SRI.MANU SEBASTIAN

**RESPONDENT(S)/PETITIONER & 1ST RESPONDENT/
PLAINTIFF & 1ST DEFENDANT:**

1. K.A.ABRAHAM @ ALEXANDER ABY KUMBAKKATTU NOEL,
S/O.REV. K.T.ALEXANDER, RESIDING AT
KUMBAKKATTU HOUSE, THRIKKARA, KARUMAGIRI,
KAKKANAD, COCHIN, ERNAKULAM DISTRICT,
(FROM PRIOR KUMBAKKATTU BUNGLOW
VALAKOM VILLAGE, KOTTARAKKARA) REPRESENTED BY
HIS POWER OF ATTORNEY JOHN JOHN,
S/O.JOHN KURIAN, TC IV/1128(2), RP LANE,
KOWDIYAR, TRIVANDRUM DISTRICT.
2. ALEX ALEXANDER, S/O.K.T.ALEXANDER, RESIDING AT
404 EAGLE LN, S.W. ROACHESTOR MN 55902, USA
FROM KUMBAKKATTU BUNGLOW, VALAKOM VILLAGE,
KOTTARAKKARA TALUK, KOLLAM DISTRICT,
REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER DR. ABRAHAM JOSEPH, RESIDING AT 446,
CIVIL SUPPLY GODOWN, KAMALAKSHIPURAM
BAGAYAM, VELLOOR, TAMIL NADU-632 002.

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 02-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 : A TRUE COPY OF PLAINT IN OS NO.73/14 ON THE FILE OF THE MUNSIFF'S COURT, KOTTARAKKARA.
- P2 : A TRUE COPY OF SETTLEMENT DEED NO.3763/98 DATED 10-12-1998 OF THE ADDL.SRO, KOTTARAKKARA.
- P3 : A TRUE COPY OF SETTLEMENT DEED NO.3762/98 DATED 10-12-1998 OF THE ADDL.SRO, KOTTARAKKARA.
- P4 : A TRUE COPY OF SALE DEED NO.52/2014 DATED 8-1-2014.
- P5 : A TRUE COPY OF SALE DEED NO.53/2014 DATED 8-1-2014.
- P6 : A TRUE COPY OF WRITTEN STATEMENT FILED BY DEFENDANTS 2 & 3.
- P7 : A TRUE COPY OF WRITTEN STATEMENT FILED BY 1ST DEFENDANT.
- P8 : A TRUE COPY OF IA NO.1697/14 IN OS 73/14 ON THE FILE OF THE MUNSIFF'S COURT, KOTTARAKKARA.
- P9 : A TRUE COPY OF COUNTER AFFIDAVIT FILED BY DEFENDANTS 2 & 3.
- P10 : A TRUE COPY OF ORDER DATED 6-6-2015 IN IA.NO.1697/14 IN OS.NO.73/14 ON THE FILE OF THE MUNSIFF'S COURT, KOTTARAKKARA.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

O.P.(C) No.2114 of 2015

Dated this the 2nd day of September, 2015

JUDGMENT

Petitioners are defendants in a suit for declaration of title and possession. The petitioners approached this Court aggrieved by allowing an amendment application filed by the plaintiff.

2. By the amendment, the plaintiff sought to change the survey number of the plaint schedule property. According to the plaintiff, there were certain mistakes in describing the survey number in title deeds of the parties and therefore, amendment has to be carried out to show the correct number. Essentially, it appears that there is certain dispute regarding identity of the property. By the amendment, no right could be accrued to the petitioners unless the petitioners establish the right in respect of the property by adducing evidence.

3. The petitioners are free to raise all objections based on the amendment by filing additional written statement. I do not find any prejudice has been caused to the petitioners or character of the suit has been changed. There is no infirmity with the order.

No doubt, if the amendment is beyond the scope and power of the court, necessarily, the petitioners are at liberty to challenge the impugned order along with the decree and judgment if otherwise the petitioners are aggrieved.

With that liberty, the original petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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