

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

O.P.(C).No. 2153 of 2015 (O)

O.S. NO. 1275/2001 OF FIRST ADDITIONAL MUNSIFF COURT, THIRUVANANTHAPURAM

PETITIONER(S)/FIRST REVIEW PETITIONER/FIRST PLAINTIFF:

**JAGAL PRASAD, AGED 74 YEARS,
S/O.VK. PANICKER, RESIDING AT PANICKERS, M.N.R.A.5,
MALLOOR NAGAR, VAZHUTHACAUD, THIRUVANANTHAPURAM.**

BY ADV. SRI. B.HARISH KUMAR

RESPONDENT(S)/COUNTER PETITIONERS/DEFENDANTS:

- 1. SHEELA,
D/O. RAJAMMA, TC.14/1045, RAJEEV NAGAR,
VAZHUTHACAUD, THIRUVANANTHAPURAM - 695 010.**
- 2. RAJAMMA,
D/O. PANKAJAKSHI AMMA, TC.14/1045, RAJEEV NAGAR,
VAZHUTHACAUD, THIRUVANANTHAPURAM - 695 010.**
- 3. SOMAN NAIR,
TC.14/1045, RAJEEV NAGAR, VAZHUTHACAUD,
THIRUVANANTHAPURAM - 695 010.**
- 4. SARALA,
W/O. CHANDRACHUDAN NAIR, SARALA BHAVAN, T.K.G.N ROAD,
VAZHUTHACAUD, THIRUVANANTHAPURAM - 695 010.**
- 5. CHANDRACHUDAN NAIR,
SARALA BHAVAN, T.K.G.N ROAD, VAZHUTHACAUD,
THIRUVANANTHAPURAM - 695 010.**
- 6. KERALA STATE ELCTRICITY BOARD,
REPRESENTED BY IT SECRETARY, VAIDYUTHI BHAVAN, PATTOM,
THIRUVANANTHAPURAM - 695 016.**
- 7. ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL MAJOR SECTION, VELLAYAMBALAM,
THIRUVANANTHAPURAM - 695 010.**

8. KERALA WATER AUTHORITY,
REPRESENTED BY ITS MANAGING DIRECTOR,
THIRUVANANTHAPURAM - 695 010.

9. GOPI,
S/O. THANAKAPPAN, TC.14/337, T.K.G.N ROAD,
RAJEEV NAGAR, VAZHUTHACAUD, THIRUVANANTHAPURAM - 695 010.

10. PARUKUTTY AMMA,
SIVA PRIYA, SANKARA ROAD, SASTHAMANGALAM,
THIRUVANANTHAPURAM - 695 010.

11. SELVI AMMAL,
TC. 14/1610, KAVITHA BHAVAN, PALAYAM - 695 001.

12.SINDHU,
RESIDING AT "SARALA BHAVAN", MALLOOR NAGAR,
VAZHUTHACAUD, THIRUVANANTHAPURAM - 695 001

R6 &7 BY ADV. SRI. K.M.SATHYANATHA MENON, SC, KSEB
R8 BY ADV. SRI.JOSEPH JOHN, SC, KERALA WATER AUTHORITY
R1-R2 BY ADVS. SRI. BECHU KURIAN THOMAS (SR.)
SRI.S.SREEDEV

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 11-09-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: A TRUE COPY OF THE JUDGMENT IN OS.NO.1275/2001 DATED 30.01.2010.
- EXT.P2: A TRUE COPY OF THE ORDER IN IA.NO.8302/2006 IN OS.NO.1275/2001 DATED 09.03.2007
- EXT.P3: A TRUE COPY OF THE WPC.NO.10302/2007 JUDGMENT DATED 20.06.2008 PASSED BY THIS HON'BLE COURT.
- EXT.P4: A TRUE COPY OF THE IA.NO.7774/2002 ORDER DATED 25.10.2002.
- EXT.P5: A TRUE COPY OF THE WPC.NO.16209/2010 JUDGMENT IN DATED 26.05.2010 PASSED BY THIS HONOURABLE COURT.
- EXT.P6: A TRUE COPY OF THE IA.NO.4606/2010 FILED BEFORE THE 1ST ADDITIONAL MUNISIFF COURT, THIRUVANANTHAPURAM
- EXT.P7: A TRUE COPY OF THE POSTING DETAILS IN REVIEW PETITION.
- EXT.P8: A TRUE COPY OF THE COMPLAINT FILED BEFORE THE SUB INSPECTOR OF POLICE ON 12.08.2015
- EXT.P9: A TRUE COPY OF THE IA.NO.6897/2015 FILED BEFORE THE 1ST ADDITIONAL MUNISIFF COURT, THIRUVANANTHAPURAM DATED 17.08.2015.
- EXT.P10: A TRUE COPY OF THE COMPLAINT FILED BEFORE THE SUB INSPECTOR OF POLICE, MUSEUM POLICE STATION ON 03.09.2015.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A. TO JUDGE

K. ABRAHAM MATHEW, J.

O.P.(C)No.2153 of 2015

Dated this the 11th day of September, 2015

J U D G M E N T

Petitioner is the first plaintiff in O.S.No.1275 of 2001 on the file of First Additional Munsiff Court, Thiruvananthapuram. The suit was for fixation of boundary and recovery of possession. The respondents 1 and 2 made a counter claim. After the trial, the learned Munsiff dismissed the suit and allowed the counter claim. The petitioner has filed I.A.No.4606 of 2010 to review the judgment and I.A.No.6897 of 2015 for a temporary injunction. The prayer is to direct the learned Munsiff to dispose of I.A.No.4606 of 2010 without delay. There is also a prayer to direct the court below to get the construction allegedly made by the first respondent after passing of the decree removed.

2. Heard.

3. The review application was filed in 2010. It is not in dispute that it was once dismissed for default. But in spite of it, as it was filed about 5 years ago, the learned

Munsiff shall dispose it of within one month from the receipt or production of a copy of this judgment. In the nature of the case a direction to remove the construction allegedly made by the first respondent cannot be granted.

In the result, this O.P. is allowed in part. The learned Munsiff is directed to dispose of I.A.No.4606 of 2010 within one month from the date of receipt or production of a copy of this judgment.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge