

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

OP(C).No. 2245 of 2015 (O)

OS 1010/2014 OF MUNSIFF COURT, NORTH PARAVUR
.....

PETITIONER(S):

**BEENA PRASAD, AGED 46 YEARS,
W/O.PRASAD, PARAMATT SREYAS HOUSE, MUPPATHADAM,
KADUNGALLUR, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.RENJITH THAMPAN (SR.)
SMT.P.R.REENA**

RESPONDENT(S):

**DEEPA,
W/O.SATHEESH KUMAR, KOTTAKKAL HOUSE, MUPPATHADAM KARA,
KADUNGALLUR VILLAGE, PARAVOOR TALUK, PIN - 683 110.**

BY ADV. SRI.RAJIV NAMBISAN

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 30-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

OP(C).No. 2245 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

P1:TRUE COPY OF THE JUDGMENT IN OPC.NO.205/2015 DATED 20.05.2015.

**P2:TRUE COPY OF THE APPLICATION IA.NO.1644/2015 AND THE AFFIDAVIT IN
OS.NO.1010/2014**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K.ABRAHAM MATHEW J.

O.P.(C) No.2245 of 2015

Dated this the 30th day of October, 2015

JUDGMENT

Petitioner is the second defendant in O.S.No.1010 of 2014 of Munsiff Court, Parur filed by the respondent for a perpetual injunction. The co-defendant is her husband. Her husband has filed O.S.No.304 of 2013 for a declaration of easement in respect of a channel and for a perpetual injunction against respondent in this Original Petition. On the allegation that the subject matter of the two suits is the same and the field of controversy is the same the petitioner along with her husband filed I.A.No.1644 of 2015 in O.S.No.1010 of 2014 for joint trial of the two suits. The learned Munsiff has dismissed it. This is challenged.

2. Heard.

3. There is no controversy that the subject matter of the two suits is the same and the field of controversy is the same and so it is necessary to try the two suits jointly. Learned Munsiff dismissed the joint trial application on the ground that if joint trial is conducted he may not be able to comply with the direction of this court in OP No.205 of 2015 to dispose of the two suits within six months. That is not a ground to dismiss the joint trial application. So I am inclined to set aside the impugned order and allow the application for joint trial.

In the result, this Original Petition is allowed. The impugned order is set aside. I.A.No.1644 of 2015 in O.S.No.1010 of 2014 is allowed. The learned Munsiff shall try to dispose of the suits before the court closes for the summer vacation in 2016.

Sd/-

K.ABRAHAM MATHEW
JUDGE

cms

/True copy/

P.S.to Judge