

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

OP(C).No. 2380 of 2015 (O)

I.A. NO.1525/2015 IN O.S. NO.166/2013 OF MUNSIFF COURT, PUNALUR.
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PETITIONER(S):

- 1. THOMAS KUNJUKUNJU,
NAYKAL PARAMBIL VEEDU,
PUNNALA POST & VILLAGE.**
- 2. MARIYAMMA, W/O.VARGHESE,
NAYKAL PARAMBIL VEEDU,
PUNNALA POST & VILLAGE.**

BY ADV. SRI.JAMES KURIAN.

RESPONDENT(S):

- 1. AELIKUTTY MATHAI @ LIZZY MATHAI,
VALLYATHU NAYKKAMPARAMBIL VEEDU,
MANTHANAM, VENKOTTA, AMARAM POST,
CHANGANASSERY-686 546.**
- 2. BINU, S/O.MATHAI,
VALLYATHU NAYKKAMPARAMBIL VEEDU, MANTHANAM,
VENKOTTA, AMARAM POST, CHANGANASSERY- 686 546.**
- 3. BINDHU, D/O.MATHAI,
VALLYATHU NAYKKAMPARAMBIL VEEDU, MANTHANAM,
VENKOTTA, AMARAM POST, CHANGANASSERY- 686 546.**
- 4. ACHANKUNJU @ VINS,
VALLYATHU NAYKKAMPARAMBIL VEEDU,
MANTHANAM, VENKOTTA, AMARAM POST,
CHANGANASSERY- 686 546.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 06-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

OP(C).No. 2380 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS:-

- P1: A TRUE COPY OF THE PLAINT IN OS.NO.166/2013 MUNSIFF'S COURT, PUNALUR.
- P2: A TRUE COPY OF THE WRITTEN STATEMENT DATED 24.11.2014 BY THE RESPONDENTS.
- P3: A TRUE COPY OF THE AFFIDAVIT AND THE PETITION FILED BY THE PETITIONERS DATED 27.06.2015.
- P4: A TRUE COPY OF THE OBJECTION FILED BY THE RESPONDENTS DATED 22.07.2015.
- P5: A TRUE COPY OF THE ORDER DATED 05.08.2015 IN IA.NO.1525/2015 IN OS.NO.166/2013 MUNSIFF'S COURT, PUNALUR.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

K. ABRAHAM MATHEW, J.

O.P.(C)No.2380 of 2015

Dated this the 23rd day of September, 2015

J U D G M E N T

Petitioners are the plaintiffs in O.S.No.225 of 2011 on the file of Munsiff, Changanasserry. The suit is for perpetual injunction and recovery of possession. After the evidence was recorded, they filed Ext.P3 application to reopen the evidence and Ext.P2 application to allow them to amend the plaint. By Exts.P4 and P5 orders the learned Munsiff dismissed both applications. The correctness is challenged.

2. Heard.

3. In the written statement defendants contended that the description of the properties in the plaint is wrong. It is submitted that the plaintiffs filed an amendment application and that was allowed. Thereafter, evidence was recorded. After the evidence was recorded, the plaintiffs again filed Ext.P2 application to amend the description of the properties in the plaint. In the evidence also the attempt of the defendants was to prove that the

plaintiffs have given a wrong description of the properties in the plaint. So the plaintiffs were fully aware that the description of the properties was wrong. They went to the trial with the knowledge that the main contention is with regard to the identity of the property. I have perused the copy of the plaint. In relief A the plaintiffs pray for a perpetual injunction prohibiting defendant No.3 from trespassing into items 1 and 2. The B relief is for recovery of item No.2 from defendant No.3. So the prayers themselves are contradictory. There is much weight in the contention of the respondents that the attempt of the petitioners is to delay the disposal of the suit. I am fully satisfied that there is nothing illegal or irregular in the impugned orders.

In the result, this O.P. is dismissed.

sd/-

K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge

