

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW**

**MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937**

**OP(C).No. 2447 of 2015 (O)**

**-----  
AGAINST THE ORDER/JUDGMENT IN OS 178/2007 of MUNSIF COURT,VARKALA  
-----**

**PETITIONER(S)/PLAINTIFF:**

**-----  
SAFARULLA AGED 58 YEARS  
S/O.ABDUL HAMEED, B.S.MANZIL, NADAYARA  
OTTAPALAM DESOM, CHEMMARATHI VILLAGE, ATTINGAL  
THIRUVANANTHAPURAM DISTRICT.**

**BY ADVS.SRI.K.MOHANAKANNAN  
SMT.A.R.PRAVITHA**

**RESPONDENT(S)/DEFENDANTS:**

- 
- 1. JABBAR  
S/O.IBRAHIM, SAJANA MANZIL, VARKALA  
THIRUVANANTHAPURAM DISTRICT-695 141.**
  - 2. ASHARAF  
S/O.ABDUL AZIZ, PLAVILA HOUSE, NADAYARA  
VARKALA, THIRUVANANTHAPURAM, PIN-695 141.**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 26-10-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP(C).No. 2447 of 2015 (O)

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
-----

EXHIBIT.P1 : TRUE COPY OF THE APPEAL MEMORANDUM AS 9/2015.

EXHIBIT.P2 ; TRUE COPY OF THE APPEAL MEMORANDUM AS 11/2005.

EXHIBIT.P3 : TRUE COPY OF THE ORDER IN IA 2053/2009 IN OS 178/2007 DT 26-10-2009 BY THE MUNSIFF COURT, VARKALA.

**RESPONDENT(S)' EXHIBITS**  
-----

NIL

R.AV

//TRUE COPY//

PA TO JUDGE

**K. ABRAHAM MATHEW, J.**

-----  
**O.P.(C)NO.2447 of 2015**  
-----

**Dated this the 26<sup>th</sup> day of October, 2015**

**J U D G M E N T**

Petitioner is the plaintiff in O.S.178 of 2009 of Munsiff Court, Attingal. There were two earlier suits allegedly in respect of the very same property. Those suits were disposed of. The appeals filed against the decrees are still pending. By Ext.P3 order the learned Munsiff stayed the trial of the present suit till the disposal of the appeals. The complaint is that notwithstanding the stay order the learned Munsiff is proceeding with the trial of the suit.

2. Heard.

3. If the allegation that the learned Munsiff is proceeding with the trial of O.S.178 of 2007 notwithstanding Ext.P3 order is correct is illegal. The learned Munsiff shall wait till the disposal of the appeals unless Ext.P3 order is set aside or otherwise modified.

In the result, this O.P is allowed. The learned Munsiff is directed to not to proceed with the trial of the suit till the disposal of the appeals mentioned in Ext.P3 order or

unless Ext.P3 order is set aside or modified in accordance with the law.

sd/-  
**K. ABRAHAM MATHEW**  
**JUDGE**

R.AV

//True Copy//

PA to Judge