

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 21ST DAY OF OCTOBER 2015/29TH ASWINA, 1937

OP(C).No. 2548 of 2015 (O)

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AGAINST THE ORDER IN I.A.NO.1230 OF 2015 DATED 30.9.2015 IN CMA NO: 62 OF
2015 ON THE FILE OF THE DISTRICT COURT, THODUPUZHA
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PETITIONER(S):

- 1. KUTTAPAN AGED 55 YEARS
S/O.KUMARAN, KARIPPAKUDIYIL HOUSE, CHEENIKUZHY KARA
UDUMBANOOR VILLAGE, THODUPUZHA TALUK, IDUKKI DISTRICT.**
- 2. THANKAPPAN
S/O.KUMARAN, KODICHUVATTIL HOUSE, CHEENIKUZHY KARA
UDUMBANOOR VILLAGE, THODUPUZHA TALUK, IDUKKI DISTRICT.**
- 3. AMMINI
W/O.LATE KUNJAPPAN, RESIDING AT KODICHUVATTIL HOUSE
CHEENIKUZHY KARA, UDUMBANOOR VILLAGE, THODUPUZHA TALUK
IDUKKI DISTRICT.**

**BY ADVS.SRI.L.RAJESH NARAYAN
SRI.SHANKAR V.**

RESPONDENT(S):

- 1. OMANA
W/O.LATE KUNJAPPAN, RESIDING AT KODICHUVATTIL HOUSE
CHEENIKUZHY KARA, UDUMBANOOR VILLAGE, THODUPUZHA TALUK
IDUKKI DISTRICT.**
- 2. SINDHU
W/O.SIVAN, RESIDING AT KODICHUVATTIL HOUSE
CHEENIKUZHY KARA, UDUMBANOOR VILLAGE, THODUPUZHA TALUK
IDUKKI DISTRICT.**
- 3. RAMANI
W/O.MANI, THANDEL HOUSE, ERANELLOOR P.O
KODUMPID KARA, MUVATTUPUZHA 685 607.**
- 4. MANISH
S/O.MANI, THANDEL HOUSE, ERANELLOOR P.O
KODUMPID KARA, MUVATTUPUZHA 685 608.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 21-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE PLAINT IN OS 298/15 ON THE FILE OF THE MUNSIFF COURT, THODUPUZHA.

EXHIBIT P2. COPY OF THE ORDER IN IA 1423/15 IN OS 298/15 OF THE MUNSIFF COURT, THODUPUZHA DATED 5.8.15.

EXHIBIT P3. COPY OF THE ORDER IN IA 1230/15 DATED 11.8.15 IN CMA 62/15 ON THE FILES OF THE DISTRICT COURT, THODUPUZHA.

EXHIBIT P4. COPY OF THE ORDER IN IA 1230/15 IN CMA 62/15 ON THE FILE OF THE DISTRICT COURT THODUPUZHA DATED 30.9.15.

RESPONDENT(S)' EXHIBITS

NIL

R.AV

//TRUE COPY//

PA TO JUDGE

ABRAHAM MATHEW, J.

O.P.(C).No.2548 of 2015

Dated this the 21st day of October, 2015

J U D G M E N T

Petitioners are plaintiffs in O.S.298 of 2015 which has been filed for perpetual injunction. Their application for a temporary prohibitory injunction was dismissed by the trial court. They have filed CMA.62 of 2015 in District Court, Thodupuzha. In the CMA they filed IA.1230 of 2015 for a temporary injunction. By Ext.P4 order the learned District Judge has dismissed it. This is challenged in this O.P.

2. Heard.

3. The petitioners claim that they and the respondents are co-owners of the plaint schedule property. They filed the suit for perpetual injunction when the respondents started construction of the house in the property. The respondents' contention is that there was an oral partition. The application for temporary injunction was dismissed mainly on the ground that there was much delay on the part of the petitioners to approach the court. As CMA is pending before the District Court, Thodupuzha,

it is not proper for me to make any comments about it. In these circumstances I am not inclined to interfere with the impugned order.

In the result, this O.P is dismissed. The learned District Judge is directed to dispose of CMA untrammelled by any of the observations in Ext.P4 order and without delay.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge

