

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

OP(C).No. 2804 of 2015 (O)

**I.A.NO.4318/2015 IN A.S.NO.303/2014 OF THE IIIRD ADDITIONAL DISTRICT COURT,
THRISSUR**

PETITIONER(S)/1ST PETITIONER - 1ST APPELLANT :

**SREE AYYAPPA BHAJANA SAMITHI,
REPRESENTED BY ITS PRESIDENT SHINIT,
METHALAPADAM DESOM, METHALA VILLAGE,
KODUNGALLOOR TALUK.**

**BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA**

RESPONDENT(S)/RESPONDENTS- RESPONDENTS :

**1. THRI PURA,
W/O.THERUVIL BALAN, TKS PURAM DESOM, METHALA VILLAGE,
KODUNGALLOOR TALUK- 680 664.**

**2. BALAN,
S/O.THERUVIL SANKARAN, TKS PURAM DESOM,
METHALA VILLAGE, KODUNGALLOOR TALUK- 680 664.**

**BY DR.K.P.SATHEESAN (SENIOR ADVOCATE)
ADVS. SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR
SRI.S.VIBHEESHANAN
SRI.K.SUDHINKUMAR**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 20-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1: TRUE COPY OF THE JUDGMENT OF THE ADDITIONAL SUB COURT, IRINJALAKUDA IN O.S NO.824/2012 DATED 11.11.2014.**
- P2: TRUE COPY OF THE REPORT SUBMITTED BY THE ADVOCATE COMMISSIONER IN I.A NO.2195/2014 IN O.S NO.2913/2014 IN THE MUNSIFF'S COURT, KODUNGALLUR DATED 16.12.2014.**
- P3: TRUE COPY OF THE ORDER PASSED BY THE ADDITIONAL SUB COURT, IRINJALAKUDA IN CHEQUE APPLICATION NO.132/2014-15 IN O.S NO.824/2014 DATED 23.01.2015.**
- P4: TRUE COPY OF THE APPLICATION FILED AS I.A NO.4294/2014 IN A.S NO.303/2014 N THE IIIRD ADDITIONAL DISTRICT COURT, THRISSUR DATED 21.11.2014.**
- P5: TRUE COPY OF THE APPLICATION FILED AS I.A NO.4222/2015 IN AS NO.303/2014 IN THE IIIRD ADDITIONAL DISTRICT COURT, THRISSUR DATED 09.11.2015.**
- P6: TRUE COPY OF THE APPLICATION FILED AS I.A NO.4318/2015 IN A.S NO.303/2014 IN THE IIIRD ADDITIONAL DISTRICT COURT, THRISSUR DATED 17.11.2015.**
- P7: TRUE COPY OF THE OBJECTION FILED BY THE RESPONDENTS TO I.A NO.4318/2015 IN A.S NO.303/2014 IN THE IIIRD ADDITIONAL DISTRICT COURT, THRISSUR DATED NIL.**
- P8: TRUE COPY OF THE ORDER OF THE IIIRD ADDITIONAL DISTRICT COURT, THRISSUR IN I.A NO.4318/2015 IN A.S NO.303/2014 DATED 18.11.2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. ABRAHAM MATHEW, J.

O.P.(C)No.2804 of 2015

Dated this the 20th day of November, 2015

J U D G M E N T

Petitioner was the defendant in OS.824 of 2012. Respondents were the plaintiffs. The plaint schedule property belongs to the latter. The petitioner claimed a right in the plaint schedule property to conduct certain ceremonies in connection with a festival in the nearby temple. By Ext.P1 judgment the trial court rejected it and prohibited the petitioner from trespassing into the plaint schedule property and interfering with the respondents' peaceful possession and enjoyment thereof. By a mandatory injunction the petitioner was directed to remove 'plastic sheets, photo and lamp' it had kept or placed in the plaint schedule property. The petitioner has filed an appeal which is pending in the district court as AS.303 of 2014. By the impugned Ext.P8 order in IA.4318 of 2015 in AS 303 of 2014 the appellate court refused to grant the petitioner permission to conduct the 'desavilakku' in the plaint schedule property. This is

challenged in this O.P.

2. Heard the learned counsel on both sides.

3. The judgment of the trial court shows that the petitioner wanted to convert the plaint schedule property as a place of worship. After the disposal of the suit the petitioner was allowed by the court to conduct the festival in the plaint schedule property under some special circumstances. On the allegation that in conducting the festival in the property the petitioner caused damage to the property. The respondents have filed a suit for damages. The nearby temple has a piece of land adjoining the plaint schedule property. It can use that piece of land for its purpose. I am not inclined to grant the prayer in the O.P.

In the result, this O.P is dismissed.

sd/-

K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge