

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

OP(C).No. 1727 of 2014 (O)

O.S.NO.824/2001 OF ADDITIONAL MUNSIFF COURT-I, NEYYATTINKARA.

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PETITIONER:

**PHILIP, S/O CHARLES, AGED 48 YEARS,
KUTTANINNATHIL VEEDU, ARUMANNOOR DESOM,
THIRUPURAM VILLAGE, NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM - 695121.**

BY SRI.T.KRISHNAN UNNI (SENIOR ADVOCATE)

ADVS. SRI.SAJU.S.A

SRI.K.C.KIRAN

SRI.M.DEVESH

SRI.VINOD RAVINDRANATH

RESPONDENT(S):

- *1. SUKUMARAN NADAR, S/O KESAVAN NADAR,
CHEMMANVILA VEEDU, NADUTHATTU PUTHEN VEEDU,
NEYYATTINKARA TALUK - 695121. (DIED)**
- 2. VILASINI, W/O SUKUMARAN NADAR,
CHEMMANAVILA VEEDU, KARUMKULAM,
NOW RESIDING AT KJP 5/81, KADAYAR VEEDU,
KANJIRAMKULAM P.O, KANJIRAMKULAM VILLAGE,
NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM DISTRICT - 695121.**
- 3. SAJITHA.S.V., D/O VILASNI,
NADUTHATTU PUTHEN VEEDU, KARAKUALAM DESOM,
NEYYATTINKARA, PIN - 695121.**
- 4. SAFIYA S.V., D/O VILASINI,
NADUTHATTU PUTHEN VEEDU, KARAKULAM DESOM,
NEYYATTINKARA, PIN - 695121.**

***IT IS RECORDED THAT 1ST RESPONDENT DIED AND R2 TO R4 ARE
RECORDED AS LRS OF DECEASED R1 AS PER ORDER DATED 12/08/2014
VIDE MEMO DATED 12/08/2014 BEARING CF NO 5932/2014)**

**R4 BY ADVS. SRI.M.RAMASWAMY PILLAI
SRI.P.C.VIJAYAKUMAR**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 16-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

OP(C).No. 1727 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1 : TRUE COPY OF THE PLAINT IN O.S NO 824 OF 2001 ON THE FILE OF THE COURT OF THE MUNSIFF OF NEYYATTINKARA, DATED 02-11-2001.
- EXHIBIT P2 : TRUE COPY OF THE WRITTEN STATEMENT DATED 19-01-2002 FILED BY THE 1ST DEFENDANT.
- EXHIBIT P3 : TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE 2ND RESPONDENT DATED 08-08-2002.
- EXHIBIT P4 : TRUE COPY OF THE REPLICATION DATED 13-11-2002 FILED BY THE PLAINTIFF IN THE SUIT.
- EXHIBIT P5 : TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN RSA 783/2010 DATED 19-11-2012.
- EXHIBIT P6 : TRUE COPY OF THE I.A 1871/2014 DATED 14-03-2014.
- EXHIBIT P7 : TRUE COPY OF THE COUNTER FILED BY THE PETITIONER DATED 15-04-2014.
- EXHIBIT P8 : TRUE COPY OF THE ORDER OF THE COURT OF MUNSIFF OF NEYYATTINKARA IN I.A NO 1871/2014 IN O.S NO 824 OF 2001 DATED 24-05-2014.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. ABRAHAM MATHEW, J.

O.P.(C) No.1727 of 2014

Dated this the 16th day of October, 2015

J U D G M E N T

Petitioner is the defendant in O.S.No.824 of 2001 on the file of Munsiff, Court-I, Neyyattinkara. The suit is for declaration for title to the plaint schedule property and recovery of its possession. The document relied on by the respondents 2 to 4 is said to be a fabricated one. By Ext.P5 judgment this court permitted them to adduce evidence to establish the genuineness of the document. After the remand, respondents 2 to 4 filed IA.No.1871 of 2014 to send the document for expert opinion. BY Ext.P8 order this was allowed. Its correctness is challenged.

2. Heard.

3. There is no dispute that to prove the genuineness of the disputed document it has to be sent for expert opinion. Respondents 2 to 4 produced one sheet of the registered document they relied on. The other sheets are said to be missing. The prayer in the application is to send the said sheet and the registers maintained at the

office of Sub Registrar concerned and documents which admittedly bear the signature of the first defendant. The prayer as it is has been allowed by the learned Munsiff.

4. There is no mention about the document bearing the admitted signatures. To this extent the impugned order is wrong. The respondents 2 to 4 should have mentioned the document which allegedly contains the admitted signatures of the first defendant. So, the order is liable to be set aside.

In the result, this O.P is allowed. The petitioners are allowed to file a proper application mentioning and describing the document which contains the admitted signatures of the first defendant. IA shall be disposed of afresh without delay.

sd/-

K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge