

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

OP(C).No. 2874 of 2015 (O)

OS 1739/2012 OF PRINCIPAL SUB COURT, THRISSUR

PETITIONER:

**VALSAKUMAR, AGED 55 YEARS,
S/O.VAKATH KOCHUNNY, CHEMBUTHARA DESOM,
PANAMCHERY VILLAGE, THRISSUR TALUK.**

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

- 1. RADHAMANI, AGED 63 YEARS,
W/O.VADAKEDATH KALATHIL RAVEENDRAN,
PALLIPURAM VILLAGE, THRISSUR TAULK- 680001.**
- 2. REMYA, AGED 39 YEARS,
D/O.VADAKKEDATH KALATHIL RAVEENDRAN,
PALLIPURAM VILLAGE, THRISSUR TALUK-680001.**
- 3. ROMMI, AGED 38 YEARS,
S/O.VADAKEDATH KALATHIL RAVEENDRAN,
PALLIPURAM VILLAGE, THRISSUR TALUK-680001.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 30-11-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

OP(C).No. 2874 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1:- A TRUE COPY OF THE PLAINT IN OS NO 1739 OF 2012 ON THE FILE OF THE SUB COURT, THRISSUR DTD 27/9/2012**
- P2:- A TRUE COPY OF THE WRITTEN STATEMENT OF THE PETITIONER HEREIN IN EXT P1 SUIT DTD 20/5/2013**
- P3:- A TRUE COPY OF THE WRITTEN STATEMENT OF THE DEFENDANTS 2 AND 3 IN EXT P1 SUIT DTD 20/8/2013**
- P4:- A TRUE COPY OF THE COUNTER CLAIM PREPARED AND SUBMITTED IN EXT P1 SUIT BY THE PETITIONER HEREIN DTD NIL**
- P5:- A TRUE COPY OF THE IA NO 3692 OF 2015 IN EXT P1 SUIT DTD 6/8/2015**
- P6:- A TRUE COPY OF THE ORDER PASSED IN IA NO 3692 OF 2015 IN EXT P1 SUIT DTD 29/10/2015 ON THE FILE OF THE SUB COURT, THRISSUR**
- P7:- A TRUE COPY OF THE ORDER PASSED IN IA NO 3691 OF 2015 IN EXT P1 SUIT DTD 29/10/2015**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K. ABRAHAM MATHEW, J.

O.P.(C)No. 2874 of 2015

Dated this the 30th day of November, 2015

J U D G M E N T

Petitioner is the first defendant in OS.1739 of 2012 of Sub Court, Thrissur. The suit is in respect of an immovable property which originally belonged to the predecessor of the respondents/plaintiffs who died in 2003. The main relief prayed in the suit is declaration of the plaintiffs' title and recovery of possession. The petitioner filed a written statement on 20.5.2013. On 6.8.2015 he filed an application to receive the counter claim. The prayer in the counter claim is for a decree for specific performance of an agreement for sale. By the impugned order the learned Sub Judge has dismissed it.

2. Heard.

3. According to the petitioner, on 13.9.83 he entered into an agreement with the respondents' predecessor for sale of the property, pursuant to which the former was put in possession of the property. The period of the agreement was up to 13.3.1984. It was extended up to 28.11.1984. Thereafter, the plaintiffs' predecessor

executed a power of attorney in favour of the petitioner empowering him to sell the property.

4. The counter claim was filed on 6.8.2015. The period of agreement is three years. It commenced at least on 28.11.1984. So there is no dispute that the claim is hopelessly time barred. In such a case the court is bound to reject the pleadings. It is also pertinent to note that in paragraph 2 of the counter claim the cause of action is shown have arisen on 12.9.2012 and 15.9.2012, which is not correct. If the pleadings can be rejected there is no question of the court taking the counter claim on file. The learned Sub Judge was right in rejecting it.

In the result this OP is dismissed.

sd/-

K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge