

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

OP(C).No. 3011 of 2015 (O)

I.A.NO.2520/2015 IN O.S.NO.222/2014 OF THE MUNSIF COURT, KANNUR

PETITIONER(S)/DEFENDANT :

**AYIKODICHI ZAINOOHI, AGED 77 YEARS,
P.M.HOUSE, NEAR ARAKKAL MUSEUM, KANNUR - 3.**

**BY SRI.M.RAMESH CHANDER (SENIOR ADVOCATE)
ADVS.SRI.ANEESH JOSEPH
SMT.DENNIS VARGHESE**

RESPONDENT(S)/PLAINTIFFS :

- 1. P.K.MAJEED, AGED 72 YEARS,
S/O.MARIYAMBI, P.K.HOUSE, NEAR ARAKAL MUSEUM,
KANNUR CITY, KANNUR - 3.**
- 2. PANIKARAKATH AYISHA, AGED 59 YEARS,
W/O.MAJEED, RESIDING AT P.K.HOUSE, NEAR ARAKAL MUSEUM,
KANNUR CITY, KANNUR - 3.**
- 3. P.K.MOIDU, AGED 66 YEARS,
S/O.MARIYAMBI, RESIDING AT KOYA MANZIL, KAYATH ROAD,
THALASSERY - 670 101.**
- 4. P.V.RUKHIYABI, AGED 58 YEARS,
W/O.MOIDU, RESIDING AT KOYA MANZIL, KAYATH ROAD,
THALASSERY - 670 101.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 09-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

OP(C).No. 3011 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE PLAINT IN O.S NO.222/2014 ON THE FILES OF THE MUNSIFF'S COURT, KANNUR.

EXHIBIT P2: TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE DEFENDANT IN O.S NO.222/2014 ON THE FILES OF THE ADDITIONAL MUNSIFF'S COURT, KANNUR.

EXHIBIT P3: TRUE COPY OF THE I.A NO.2520/2015 IN O.S NO.222/2014 ON THE FILES OF THE MUNSIFF'S COURT, KANNUR.

EXHIBIT P4: TRUE COPY OF ORDER IN I.A NO.2520/2015 IN O.S NO.222/2014 OF THE MUNSIFF'S COURT, KANNUR DATED 26.09.2015.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

K.ABRAHAM MATHEW J.

O.P.(C)No.3011 of 2015

Dated this the 9th day of December, 2015

JUDGMENT

Petitioner is the defendant in O.S.No.222 of 2014 of Munsiff Court, Kannur. The suit is for a mandatory injunction directing the petitioner to vacate the plaint schedule building. She contended that the property has been mortgaged to her and the document is in the possession of her son, who has been won over by the respondents/plaintiffs. So she filed Ext P3 application to implead her son as an additional defendant. By Ext P4 order, the learned Munsiff has dismissed it. The petitioner is aggrieved by it.

2. Heard.

3. The argument of the learned counsel for the petitioner is that Order 8A of the Code of Civil Procedure is applicable. I cannot agree with it. There is no question of contribution or indemnification in this case. At best, the petitioner may request the court to issue a summons to her son to produce the document and if it is not produced she may adduce secondary evidence in accordance with law. The petitioner's son is neither a necessary nor a proper party. The learned Munsiff has rightly dismissed the application.

In the result, this Original petition is dismissed.

Sd/-
K.ABRAHAM MATHEW
JUDGE

cms

/True copy/

P.S.to Judge