

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 11TH DAY OF DECEMBER 2015/20TH AGRAHAYANA, 1937

OP(C).No. 3034 of 2015 (O)

(I.A.NO.707 OF 2015 IN O.S.NO.23 OF 2015 SUB COURT, KOCHI)

PETITIONER(S) :

1. KARL HEINZ DAMSCHEN, AGED 73 YEARS,
S/O.KARL DAMSCHEN, RESIDING AT SUI HOUSE,
DOOR NO.VIII/2010B, 1ST FLOOR, MAULANA AZAD ROAD,
CHAKKAMADAM, MATTANCHERRY, KOCHI-682 002.

2. ANNELIESEKLARCHEN, W/O.KARL HEINZ DAMSCHEN,
RESIDING AT SUI HOUSE, DOOR NO.VIII/2010B, 1ST FLOOR,
MAULANA AZAD ROAD, CHAKKAMADAM, MATTANCHERRY,
KOCHI-682 002.

BY ADVS.SRI.K.V.SOHAN

SRI.S.GOPAKUMAR

RESPONDENT(S) :

JOSEPH ANANDKUMAR, S/O.JOSEPH LEENS,
VIII/2010A, SUI HOUSE,
MAULANA AZAD ROAD, CHAKKAMADAM, MATTANCHERRY,
KOCHI-682 002.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 11-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1: TRUE COPY OF THE PLAINT IN O.S.23/2015, DATED 23.4.2015 NOW
PENDING BEFORE THE SUBORDINATE JUDGE'S COURT, KOCHI.

EXT.P2: TRUE COPY OF THE IA,A2103/2015 FILED ALONG WITH EXT.P1
PLAINT BEFORE THE DISTRICT COURT, ERNAKULAM DATED
23.04.2015.

EXT.,P3: TRUE COPY OF THE EXPARTE PROVSIONAL ORDER OF INJUNCTION IN
I.A.2103/2015 PASSED BY THE DISTRICT JUDGE, ERNAKULAM
DATED 25.04.2015.

EXT.P4: TRUE COPY OF THE COUNTER AFFIDAVIT DATED 22.05.2015 FILED ON
11.06.2015 BEFORE THE SUBORDINATE JUDGE'S COURT, KOCHI IN
I.A.2103/2015 WHICH WAS RE-NUMBERED AS I.A.457/2015.

EXT.P5: TRUE COPY OF THE ADVANCE HEARING PETITION, I.A.554/2015
FILED ON 11.06.2015.

EXT.P6: TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE PLAINTIFF,
DATED 18.06.2015 PRAYING TO DISMISS THE ADVANCE HEARING
PETITION.

EXT.P7: TRUE COPY OF THE COUNTER AFFIDAVIT TO I.A.457/2015 FILED ON
03.08.2015.

EXT.P8: TRUE COPY OF THE APPLICATION, I.A.707/2015 ALLEGING
VIOLATION OF THE INJUNCTION ORDER DATED 25.07.2015.

EXT.P9: TRUE COPY OF THE COUNTER AFFIDAVIT TO EXT.P8 INJUNCTION
VIOLATION PETITION FILED ON 03.08.2015.

EXT.P10: TRUE COPY OF THE I.A.728/2015 FILED ON 03.08.2015
REQUESTING THE COURT TO CONSIDER THE ISSUE OF
MAINTAINABILITY OF THE SUIT.

EXT.P11: TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE DEFENDANTS
IN O.S.23/2015 DATED 03.10.2015.

EXT.P12: TRUE COPY OF THE AGREEMENT EXECUTED BETWEEN DEFENDANT NO.1
AND THE PLAINTIFF DATED 11.04.2005.

RESPONDENT(S) ' EXHIBITS: NIL

// TRUE COPY //

PA TO JUDGE

K.ABRAHAM MATHEW J.

O.P.(C) No.3034 of 2015

Dated this the 11th day of December, 2015

JUDGMENT

Petitioners are defendants in O.S.No.23 of 2015 on the file of Sub Court, Kochi. The suit was filed in vacation court, which has granted an ad interim injunction order in favour of the respondent/plaintiff. The complaint of the petitioners is that the court has not disposed it of so far. I am satisfied that the request of the petitioners to direct the trial court to dispose of Ext P2 application immediately is reasonable.

In the result, this O.P is disposed of with a direction to the learned Sub Judge to dispose of Ext P2 application within two weeks from the date of receipt or production of a copy of this judgment. Immediately after the issues are framed the trial court shall also hear on the question of maintainability as a preliminary issue.

**K.ABRAHAM MATHEW
JUDGE**

pm