

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 14TH DAY OF DECEMBER 2015/23RD AGRAHAYANA, 1937

OP(C).No. 3056 of 2015 (O)

OS.NO.184/2014 OF MUNSIFF COURT, CHANGANASSERY

PETITIONER(S):

**ROSAMMA KURUVILA, AGED 73 YEARS,
W/O.LATE K.C.ALEXANDER, AZHAKATH VEETIL,
VELLAVOOR VILLAGE, CHANGANASSERY.**

BY ADV. SRI.LALJI P.THOMAS

RESPONDENT(S):

- 1. C.K JOSE,
S/O.KURUVILA, MATHILAKATH CHETTAYIL,
VELLAVOOR VILLAGE,
CHANGANASSERY 687 610.**
- 2. DALIYA JOSE
W/O.C.K.JOSE, MATHILAKATH CHETTAYIL,
VELLAVOOR VILLAGE,
CHANGANASSERY 687 610.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 14-12-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

OP(C).No. 3056 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. COPY OF THE ORDER OF THE CHANGANASSERY MUNSIFF COURT
DATED 6.8.14 IN IA 841/14 IN OS 184/14.**

**EXHIBIT P2. COPY OF THE ORDER DATED 3.12.15 IN IA 1578/14 IN OS 184/14 OF THE
MUNSIFF COURT, CHANGANASSERY.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K. ABRAHAM MATHEW, J.

O.P.(C)No.3056 of 2015

Dated this the 14th day of December, 2015

J U D G M E N T

The petitioner is the plaintiff in OS.184 of 2014 of Munsiff Court, Changanassery. The suit is for fixation of boundary and other reliefs. It was alleged that the respondents cut down an anjily tree standing in the disputed portion. By Ext.P1 order the learned Munsiff directed release of the timber to any of the parties who furnishes Rs.15,000/- (Rupees fifteen thousand only). Both parties furnished security. It is submitted that even without any order the respondents took away the timber. The prayer in this OP is to direct the respondents to return the timber.

2. Heard.

3. I have no doubt that the learned Munsiff should not have passed an order like Ext.P1. She should have either ordered sale of the timber by auction between the parties or by public auction and to deposit the sale proceeds in the court. The respondents should not have taken away the timber without the orders of the court. It

is for the trial court to take appropriate action in this matter. But I cannot direct the respondents to return the timber as it is not known in whose custody it is at present. It is submitted by the learned counsel that the suit is ripe for trial. So the learned Munsiff shall try to dispose of the suit itself within six months.

In the result, this OP is disposed of with a direction to the learned Munsiff to take appropriate action in the matter and to dispose of the suit within six months from the date of receipt or production of a copy of this judgement provided it is ripe for trial.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge