

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

OP(C).No. 3100 of 2015 (O)

OS 174/2011 OF ADDL. SUB COURT, PALAKKAD
.....

PETITIONER(S):

**SALAKSHI NETHYAR, AGED 73 YEARS,
D/O.PARUKUTTY NETHYAR, GOVIND NIVAS,
AKATHETHARA AMSOM DESOM, AKATHETHARA P.O.,
PALAKKAD TALUK AND DISTRICT - 678 008.**

BY ADV. SRI.K.P.BALAGOPAL

RESPONDENT(S):

- 1. JOHNSON, AGED 65 YEARS,
S/O.KRISHNAN, SS QUARTERS, NSS ENGINEERING COLLEGE P.O.,
AKATHETHARA AMSOM DESOM,
PALAKKAD TALUK AND DISTRICT - 678 008.**
- 2. KUMARA MENON, AGED 65 YEARS,
S/O.PARUKUTTY NETHYAR, KURICHIL VEEDU, DEVI NIVAS,
AKATHETHARA P.O., AKATHETHARA AMSOM DESOM,
PALAKKAD TALUK AND DISTRICT - 678 008.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 17-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

OP(C).No. 3100 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. COPY OF THE CERTIFIED COPY OF THE PARTITION DEED NO.1265/1967
OBTAINED FROM SRO, PALAKKAD.**

EXHIBIT P2. COPY OF THE IA 519/15 IN OS 174/14.

**EXHIBIT P3. COPY OF THE STATEMENT OF OBJECTION FILED BY THE
IST RESPONDENT.**

**EXHIBIT P4. COPY OF THE COUNTER STATEMENT FILED IN THE ABOVE IA 519/15 IN
OS 174/11 DATED 7.7.15.**

EXHIBIT P5. COPY OF THE ORDER IN IA 519/15 IN OS 174/11 DATED 5.8.15.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K. ABRAHAM MATHEW, J.

O.P.(C)No. 3100 of 2015

Dated this the 17th day of December, 2015

J U D G M E N T

OS.174 of 2011 of Sub Court, Palakkad is a suit instituted by the first respondent against the second respondent. The partition deed under which the latter was allotted a property was produced in the suit by the first respondent alleging that it was given as a security for the transaction between him and the second respondent. The petitioner, who is brother of the second respondent, filed IA.519 of 2015 for return of the document to her. This has been dismissed by the learned Sub Judge. This is challenged in this OP.

2. Heard.

3. The petitioner's case is that she is entitled to be in custody of the original partition deed and she handed over it to her brother, second respondent, for some other purpose and it was allegedly snatched from him by the first respondent. That may or may not be true. But the document can be returned only to the party, who produced

before the court unless there is an order to the contrary by the court. This OP cannot be allowed for the simple reason that it was only in accordance with the provisions of the relevant statutes the learned Sub Judge has rejected his application.

In the result, this OP is dismissed.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge