

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

OP(C).No. 3126 of 2015 (O)

AGAINST THE ORDER/JUDGMENT IN CMA 1/2014 of ADDL.DISTRICT
COURT,KOTTAYAM DATED 17-07-2014

AGAINST THE ORDER/JUDGMENT IN OS 150/2013 of SUB COURT, PALA DATED

PETITIONER(S):

1. SEBASTIAN JOSEPH, S/O.JOSEPH, AGED 42 YEARS (DEFENDANT 134)
VADEKKETHAKIDIYEL HOUSE, CHENAPPADY KARA,
PAZHAYIDAM, ERUMELI VILLAGE, KANJIRAPPALLY TALUK,
KOTTAYAM DISTRICT REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER JOSEPH S/O.CHACKO, VADEKKETHAKIDIYEL HOUSE,
CHENAPPADY KARA, PAXHAYIDAM, ERUMELI VILLAGE,
KANJIRAPPALLY TALUK, KOTTAYAM DISTRICT
2. THRA.R.NAIR., AGED 33 YEARS, (DEFENDANT 118)
D/O.K.S.RAJENDRAN NAIR,
INCHAMPALLIL HOUSE, EDAKKUNNAM KARA,
ERUMELI VILLAGE, KANJIRAPPALLY TALUK,
KOTTAYAM DISTRICT @ THARA.R.NAIR, W/O.SUJITH T.U.,
PALAPLATTU HOUSE, CHENAPPADY KARA,
ERUMELI SOUTH VILLAGE KOTTAYAM DISTRICT.
3. ANTONY, S/O.VARKEY, AGED 66 YEARS, (DEFENDANT 153)
NAGATHUMUKKIL HOUSE, VAZHAKKALA,
ATTUMUKKIL, ERUMELI SOUTH VILLAGE,
KANJIRAPPALLY TALUK, KOTTAYAM DISTRICT.
4. P.S.SUDHEER, AGED 46 YEARS, S/O.N.K.SASIDHARAN (DEFENDANT 18)
SRINIVALIL HOUSE, THOTTUMUKHAM, PAZHAYIDAM,
CHENAPPADY KARA, KANJIRAPPALLY TALUK,
KOTTAYAM DISTRICT, REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER N.K.SASIDHARAN, S/O.KUNJURAMAN, AGED 69 YEARS,
SRINIVAL BIRLA COLONY, KE ROAD, KANJIRAPPALLY, KOTTAYAM
DISTRICT.
5. SIFANA.K.SULAIMAN, AGED 36 YEARS, (DEFENDANT 151)
D/O.SULAIMAN RAWTHAR, POOVATHUNKAL, KUMARACHANPERUMBIL
HOUSE, CHENAPPADY KARA, ERUMELI SOUTH VILLAGE,
KANJIRAPPALLY TALUK, KOTTAYAM DISTRICT.

6. SANTHOSH, S/O.THOMAS, AGED 36 YEARS, (DEFENDANT 85)
AREEPARAMBIL HOUSE, ERUMELI KARA,
ERUMELI SOUTH VILLAGE, KOTTAYAM DISTRICT.
7. T.M.JOHN,S/O.MATHEW, (DEFENDANT 86) AGED 52 YEARS,
THAZHOMPADIKKAL HOUSE,ERUMELI KARA,KANAKAPPLAM P.O.,
KOTTAYAM DISTRICT.
8. ABRAHAM SAMUEL,AGED 41 YEARS,S/O.V.M.SAMUEL, (DEFENDANT 79)
VADAKKEMATTUMANNIL HOUSE, ERUMELI KARA,
KANAKAPPLAM P.O., KOTTAYAM DISTRICT.
9. SOUMYA, D/O.BALAKRISHNAN NAIR,AGED 33 YEARS (DEFENDANT 145)
MADAPPATTU HOUSE, CHENAPPADY KARA, VIZHIKATHODU P.O.,
ERUMELI SOUTH VILLAGE, KOTTAYAM DISTRICT.
10. BIJU THOMAS, S/O.THOMAS, AGED 45 YEARS, (DEFENDANT 100)
ADUKALLIL HOUSE, EDAKKUNNAM KARA,
MUNDAKAYAM P.O., ERUMELI NORTH VILLAGE,
KOTTAYAM DISTRICT.
11. BHASKARA PILLAI, S/O.KUTTANPILLAI, (DEFENDANT 12)
AGED 63 YEARS,KATTUPURA HOUSE, CHENAPPADY KARA,
ERUMELI SOUTH VILLAGE, KOTTAYAM DISTRICT.
12. SURESH, S/O.RAJAN, AGED 43 YEARS, (DEFENDANT 46)
KIZHAKKETHIL HOUSE, ERUMELI KARA,
ERUMELI SPOUTH VILLAGE, KANJIRAPPALLY TALUK,
KOTTAYAM DISTRICT.

BY ADV. SRI.A.C.DEVASIA

RESPONDENT (S) :

1. RUKKAIYA BEEVI, AGED 77 YEARS,
W/O.LATE PERIYA MEERAN RAVUTHOR,
P.S.R. BUNGALOW, KANNAN KARA, KUMBAZHA KARA,
KUMBAZHA VILLAGE, KOZHENCHERY TALUK,
PATHANAMTHITTA DISTRICT-689 647-PRESENT ADDRESS - NOW
RESIDING AT KANJIRAMANIKUNNATHIL PUTHENVEEDU, NEAR
CHRISTMAS BHAVAN, OMALLOOR P.O., MANJANIKARA KARA
(OMALLOOR TOWN WARD 13), OMALLOOR VILLAGE, KOZHENCHERRY
TALUK, PATHANAMTHITTA DISTRICT, PIN-689647 (PLAINTIFF)
2. ADBUI LATHIF, AGED 68 YEARS,
S/O. LATE SAYED MOHAMMED RAVUTHAR,RESIDING AT
THEKKUMTHOTTATHIUL HOUSE, ERUMELY KARA, ERUMELY P.O.,
KANJIRAPPALLY TALUK, KOTTAYAM DISTRICT -686509
(1ST DEFENDANT)
3. ADBUL JABBAR, AGED 66 YEARS,
S/O.LATE SAYED MOHAMMED RAVUTHOR, RESIDING AT

THEKKUMTHOTTATHIL HOUSE, ERUMELY KARA, ERUMELY P.O.,
KANJIRAPPALLY TALUK, KOTTAYAM DISTRICT-686509 (2ND
DEFENDANT)

4. THAMBI RAVUTHOR, AGED 79 YEARS,
S/O.LATE SAYED MOHAMMED RAVUTHOR,RESIDING AT
THEKKUMTHOTTATHIL HOUSE, ERUMELY KARA,
ERUMELY P.O., KANJIRAPPALLY TALUK, KOTTAYAM DISTRICT
686 509 (3RD DEFENDANT)
5. ANEESA NASIM, AGED 51 YEARS,
W/O.LATE NASEEMUDEEN, RESIDING AT THEKKUMTHOTTATHIL HOUSE,
ERUMELY KARA, ERUMELY P.O.,L KANJIRAPPALLY TALUK, KOTTAYAM
DISTRICT- 686509 (7TH DEFENDANT)
6. SAYEED MUHAMMED, AGED 27 YEARS,
S/O.LATE NASEEMUDEEN, RESIDING AT THEKKUMTHOTTATHIL HOUSE,
ERUMELY KARA, ERUMELY P.O., KANJIRAPPALLY TALUK, KOTTAYAM
DISTRICT - 686 509 (8TH DEFENDANT)
7. SUMINA NASEEM, AGED 23 YEARS, D/O.LATE NASEEMUDEEN,
RESIDING AT THEKKUMTHOTTATHIL HOUSE, ERUMELY KARA, ERUMELY
P.O., KANJIRAPPALLY TALUK, KOTTAYAM DISTRICT - 686 509
(9TH DEFENDANT)
8. K.P.HAJARA BEEVI, AGED 65 YEARS,
W/O.THAMBI RAVUTHOR, RESIDING AT THEKKUMTHOTTATHIL HOUSE,
ERUMELY KARA, ERUMELY P.O., KANJIRAPPALLY TALUK, KOTTAYAM
DISTRICT - 686 509 (24TH DEFENDANT)
9. LATHIFA BEEVI, AGED 58 YEARS, W/O.ABDUL LATHIF, RESIDING
AT THEKKUMTHOTTATHIL HOUSE, ERUMELY KARA, ERUMELY P.O.,
KANJIRAPPALLY TALUK, KOTTAYAM DISTRICT - 686 509 (26TH
DEFENDANT)
10. NOUSHAJA, AGED 39 YEARS, D/O.ABDUL JABBAR, RESIDING AT
THEKKUMTHOTTATHIL HOUSE, ERUMELY KARA, ERUMELY P.O.,
KANJIRAPPALLY TALUK, KOTTAYAM DISTRICT - 686 509 (30TH
DEFENDANT)
11. SEBIN, AGED 34 YEARS, D/O. ABDUL LATHIF, RESIDING AT
THEKKUMTHOTTATHIL HOUSE, ERUMELY KARA, ERUMELY P.O.,
KANJIRAPPALLY TALUK, KOTTAYAM DISTRICT - 686 509 (39TH
DEFENDANT)

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 21-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXHIBIT-P1 TRUE COPY OF THE PLAINT IN O.S.NO.150 OF 2013

EXHIBIT-P2 TRUE COPY OF THJE INJUNCTION PETITION, I.A.NO.1406/2013 IN
O.S.NO.150/2013 DATED 30.8.2013

EXHIBIT-P3 TRUE COPY OF THE ORDER IN I.A.NO.1406/2013 IN
O.S.NO.150/2013 DATED 6.12.2013

EXHIBIT-P4 TRUE COPY OF THE ORDER IN C.M.A.NO.1/2014 DATED 17.7.2014

EXHIBIT-P5 TRUE COPY OF THE SALE DEED NO.111/2002 OF THE 1ST
PETITIONER OF S.R.O ERUMELI DATED 17.1.2002

EXHIBIT-P6 TRUE COPY OF THE E.C. DATED 20.11.2015 OF THE 1ST
PETITIONER IN RESPECT OF EXT.P5.

EXHIBIT-P7 TRUE COPY OF THE POWER OF ATTORNEY DATED 26.6.2015
EXECUTED BY THE 1ST PETITIONER IN FAVOUR OF HIS FATHER
JOSEPH

EXHIBIT-P8 TRUE COPY OF THE SALE DEED NO.1753/2003 OF THE 2ND
PETITIONER OF S.R.O, ERUMELI DATED 7.7.2003

EXHIBIT-P9 TRUE COPY OF THE E.C. OF THE 2MND PETITIONER DATED
2.12.2015 IN RESPECT OF EXT.P8

EXHIBIT-P10 TRUE COPY OF THE SALE DEED NO.2424/1/85 OF THE 3RD
PETITIONER IN RESPECT OF EXT.P8

EXHIBIT-P11 TRUE COPY OF THE E.C. OF THE 3RD PETITIONER DATED
12.11.2015 IN RESPECT OF EXT.P10

EXHIBIT-P12 TRUE COPY OF THE SALE DEED NO.3178/2010 OF ERUMELI
SOUTH VILLAGE OF THE 4TH PETITIONER DATED 4.10.2010

EXHIBIT-P13 TRUE COPY OF THE POWER OF ATTORNEY HOLDER OF THE 4TH
PETITIONER EXECUTED IN FAVOUR OF HIS FATHER, DATED 28.6.2010

EXHIBIT-P14 TRUE COPY OF THE E.C. OF THE 4TH PETITIONER DATED
26.11.2015 IN RESPECT OF EXT.P12

EXHIBIT-P15 TRUE COPY OF THE SALE DEED NO.3585/2004 OF THE 5TH
PETITIONER DATED 8.12.2004 OF S.R.O, ERUMELI

EXHIBIT-P16 TRUE COPY OF THE E.C. OF THE 5TH PETITIONER IN
RESPECT OF THE EXT.P15 DATED 19.11.2015

EXHIBIT-P17 TRUE COPY OF THE SALE DEED NO.3549/2011 OF SRO,

ERUMELI OF PETITIONERS 6 TO 8

EXHIBIT-P18 TRUE COPY OF THE E.C. OF PETITIONERS 6 TO 8 DATED
11.12.2015

EXHIBIT-P19 TRUE COPY OF THE SALE DEED NO.2974/2012 OF THE 9TH
PETITIONER DATED 5.10.2012 OF SRO, ERUMELI

EXHIBIT-P20 TRUE COPY OF THE E.C. DATED 19.6.2015 IN RESPECT OF
EXT.P19

EXHIBIT-P21 TRUE COPY OF THE SALE DEED NO.1822/2012 OF THE 10TH
PETITIONER DATED 6.6.2012

EXHIBIT-P22 TRUE COPY OF THE E.C. OF THE 10TH PETITIONER IN
RESPECT OF EXT.P21 DATED 11.12.2015

EXHIBIT-P23 TRUE COPY OF THE SALE DEED NO.1451/89 OF THE 11TH
PETITIONER OF SRO, ERUMELI DATED 24.8.1989

EXHIBIT-P24 TRUE COPY OF THE E.C. DATED 8.7.2015 OF THE 11TH
PETITIONER IN RESPECT OF EXT.P23

EXHIBIT-P25 TRUE COPY OF THE SALE DEED NO.1329/2011 OF THE 12TH
PETITIONER DATED 28.5.2011

EXHIBIT-P26 TRUE COPY OF THE E.C. OF THE 12TH PETITIONER
DATED 11.12.2015 IN RESPECT OF EXT.P25

RESPONDENTS EXHIBITS: NIL

// TRUE COPY //

PA TO JUDGE

K.ABRAHAM MATHEW J.

O.P.(C) No.3126 of 2015

Dated this the 21st day of December, 2015

JUDGMENT

Petitioners are some of the defendants in O.S.No.150 of 2013 of Sub Court, Pala. The respondents/plaintiffs filed an application for a temporary injunction restraining some other defendants from doing certain acts. That was dismissed. But in C.M.A.No.1 of 2014 the learned district judge has allowed it in part. The respondents in that C.M.A have been restrained from alienating their right in the plaint schedule properties till the disposal of the suit. The prayer in this O.P is to set aside the judgment in the C.M.A and declare that it is not binding on the petitioners and their properties.

2. Heard the learned counsel for the petitioners.

3. Since the petitioners are not parties to the injunction application or C.M.A No.1 of 2014, there cannot be any doubt that the judgment in C.M.A is not binding on them or their properties. With the above observation, this O.P is disposed of.

**K.ABRAHAM MATHEW
JUDGE**