

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

OP(C).No. 3149 of 2015 (O)

(I.A.NO.1686/2015 IN OS.NO. 45/2012 OF MUNSIFF MAGISTRATE COURT, PARAVOOR)

PETITIONER :

**MINI.P., W/O.K.SABU,
CHARUVILA PUTHEN VEEDU, EDANADU.P.O.,
KARAMCODE, KOLLAM DISTRICT,
NOW RESIDING AT PAPPATTU QUARTERS,
MAKKARAPARAMBA AMBALA KAVALA,
MAKKARA PARAMBA.P.O., PIN-676 507**

**BY ADVS.SRI.K.SABU
SRI.A.CHANDRA BABU
SRI.S.R.SUNJITH**

RESPONDENT(S):

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- 1. RAJENDRAN, S/O. LATE SUKUMARAN,
SANTHOSH BHAVAN, EDANADU.P.O.,
KARAMCODE, KOLLAM DISTRICT, PIN-691 579**
 - 2. SUJATHA, W/O.RAJENDRAN, SANTHOSH BHAVAN,
EDANADU.P.O., KARAMCODE, PIN-691 579**
 - 3. MOHANAN, S/O.LATE SUKUMARAN, AGED 46 YEARS,
PLAVILA HOUSE, EDANADU.P.O., KARAMCODE,
KOLLAM DISTRICT, PIN-691 579**
 - 4. VISWAMOHAN, S/O.LATE SUKUMARAN,
CHARUVILA PUTHEN VEEDU, EDANADU.P.O.,
KARAMCODE, KOLLAM DISTRICT, PIN-691 579**
 - 5. RAMACHANDRAN, S/O.LATE SUKUMARAN, RENI NILAYAM,
C/O.RADHAMANI, KARAMCODE, KOLLAM DISTRICT, PIN-691 579**
 - 6. MANOHARAN, S/O. LATE SUKUMARAN,
THEKKENVILA HOUSE, NEAR MUCHODE TEMPLE,
MADAVOOR, PALLIKKAL, MADAVOOR.P.O., PIN-695 602**
 - 7. MONU.C.S., S/O.CHANDRASEKHARAN,
CHARUVILA PUTHEN VEEDU, EDANADU.P.O.,
KARAMCODE, KOLLAM DISTRICT, PIN-691 579**

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8. SONU.C.S., S/O.CHANDRASEKHARAN,
CHARUVILA PUTHEN VEEDU, EDANADU.P.O.,
KARAMCODE, KOLLAM DISTRICT, PIN-691 579

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

sts

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE REPORT OF THE MEENADU VILLAGE OFFICER DATED 20/11/2013.
- P2 COPY OF THE REPLY FROM THE RDO OFFICE AS A REPLY TO THE APPLICATION FILED UNDER RIGHT TO INFORMATION ACT DATED 08/09/2015
- P3 COPY OF THE PETITION FOR RE-OPENING THE EVIDENCE DATED 03/10/2015
- P4 COPY OF THE ADDITIONAL WITNESS SCHEDULE DATED 12/10/2015
- P5 COPY OF THE PLAINT IN O.S.45/2012
- P6 COPY OF THE ORDER IN IA.1686/2015 DATED 09/11/2015.

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K. ABRAHAM MATHEW, J.

O.P.(C)No. 3149 of 2015

Dated this the 22nd day of December, 2015

J U D G M E N T

Petitioner is the plaintiff in OS.45 of 2012 of Munsiff Court, Paravur. The respondents/defendants are her close relatives. The suit is for a perpetual injunction in respect of the plaint schedule immovable property. After the evidence was closed, she filed IA.1686 of 2015 to reopen the evidence so that she may examine two more witnesses. This has been dismissed by the learned Munsiff. This is challenged in this OP.

2. Heard.

3. One of the witnesses sought to be examined is a village officer. The purpose is to prove a document obtained by the petitioner under the Right to Information Act. The dispute is with regard to the title to and possession of the property. Title is a matter to be proved by documents. The village officer cannot prove it by his oral evidence. The document the petitioner has obtained under the Right to Information Act is irrelevant. It is not

admissible under the Evidence Act. So the prayer to reopen the evidence to examine the village officer cannot be allowed.

4. The other witness sought to be examined is the person, who allegedly planted rubber trees in the plaint schedule property at the request of the petitioner. His evidence may be relevant. But in the application the reason for his examination was not disclosed, which was the reason why the learned Munsiff disallowed the prayer. Tire learned Munsiff was fully justified in doing so. But having regard to the special facts of the case, I am inclined to direct the learned Munsiff to reconsider the matter if the petitioner files a proper application for the examination of that witness.

In the result, this OP is disposed of with a direction to the learned Munsiff to reconsider the question regarding reopening of the evidence to examine the witness Sugathan if a proper application is filed for that purpose.

sd/-

K. ABRAHAM MATHEW
JUDGE

R.AV

H/O

//True Copy//

PA to Judge