

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

OP(C).No. 2100 of 2014 (O)

IA NO.1037/2014 & IA 1038/2014 IN AS 13 OF 2013 OF SUB COURT TIRUR

PETITIONERS :

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- 1. P.K.IBRAHIMKUTTY, AGED 70 YEARS,
S/O. KUNHAVARU, PUHENPURAKKAL HOUSE, P.O. OTHALUR
MALAPPURAM DISTRICT.**
 - 2. V. MUHAMMADUNNI,
S/O. AVARAN, VIRALIPPURATHU HOUSE, P.O. MOOKUTHALA
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.T.KRISHNAN UNNI (SR.)
SRI.VINOD RAVINDRANATH
SRI.SAJU.S.A
SRI.K.C.KIRAN
SRI.M.DEVESH**

RESPONDENTS :

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- 1. P.P.KALID
S/O. MUHAMMEDKUTTY, PARANGODATHU VALAPPIL HOUSE,
P.O. KOKKUR, MALAPPURAM DISTRICT-679523.**
 - 2. T.M. SALAM,
S/O. MOIDUNNI, THYKOOTTUVALAPPIL HOUSE, P.O.,
OTHALUR SOUTH, MALAPPURAM DISTRICT-679534.**

**R1 & R2 BY ADV. SRI.R.O.MUHAMED SHEMEEM
BY ADV. SMT.NASEEHA BEEGUM P.S.**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 22-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

OP(C).No. 2100 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE PLAINT IN O.S. 233/2008 DATED 14-11-2008.
- P2: TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE DEFENDANTS
DATED 1-5-2009.
- P3: TRUE COPY OF THE JUDGMENT DATED 20-12-12 IN O.S. 233 OF 2008 ON THE
FILE OF THE COURT OF THE MUNSIF MAGISTRATE OF PONNANI.
- P4: TRUE COPY OF THE ORDER OF THE COURT OF THE SUBORDINATE JUDGE
OF TIRUR IN I.A. 1037/2014 AND I.A. 1038/2014 IN A.S. 13/2013 DATED 3-9-2014.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

B.KEMAL PASHA, J.

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O.P.(C). No.2100 of 2014

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Dated this the 22nd day of June, 2015

J U D G M E N T

Exhibit P4 order is under challenge. It seems that the suit was filed by one Trust against another Trust. At the same time, instead of making the Trust itself as the 1st defendant, one A.P.Abdulkhadar Maulavi, 75 years, S/o.Enu Musliar, Adathiparambil House, P.O.Pathappiriyam, Edavanna. (Chairman, Assabah Association Trust, Pavittappuram, P.O.Othalur West) was impleaded as the 1st defendant. But on going through the tenor of the plaint as well as the judgment in the suit, it seems that the Trust itself was the party and the said A.P.Abdulkhadar Maulavi was impleaded as the Chairman of the said Trust named Assabah Association Trust. The said A.P.Abdulkhadar

Maulavi died pending appeal. His legal representatives were sought to be impleaded. The court below has declined the request through Exhibit P4 order and directed the parties to implead the Chairman of the Assabah Trust as the legal representative of the deceased 1st appellant.

2. It seems that no interference is required in the matter. Even though originally it may appear that the said 1st defendant was impleaded in his personal capacity, it seems that the contents of the plaint as well as the judgment reveal that the said A.P.Abdulkhadar Maulavi was impleaded as the Chairman of the said Trust and the said Trust is the actual party. In such case, the present Chairman of the Trust has to be impleaded.

With the said observations, this Original Petition (Civil) is dismissed.

Sd/-

B.KEMAL PASHA
JUDGE