

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

OP(C).No. 2245 of 2014 (O)

-----

AGAINST THE JUDGMENT IN OS 1573/2014 of III ADDL. MUNSIF  
COURT, THRISSUR

PETITIONER(S):

-----

JOSEPH, AGED 50 YEARS  
S/O.JAMES CHEERATH, MARATHAKARA VILLAGE  
THRISSUR TALUK, THRISSUR DISTRICT-680306.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT(S):

-----

1. DR.JIJO JAMES,  
S/O.JAMES CHEERATH, KANIYAMPAL DESOM  
KUNNAMKULAM VILLAGE, KANIPAYYOOR, TALAPPILLY TALUK  
THRISSUR DISTRICT-680001.
2. LILLY,  
W/O.JAMES CHEERATH, MARATHAKARA VILLAGE  
THRISSUR TALUK, THRISSUR DISTRICT-680306.

R1 BY ADV. SRI.S.SHARAN

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 03-12-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1: COPY OF THE DOCUMENT DATED NIL.  
EXT.P2: COPY OF THE COMPROMISE DECREE IN OS NO.1573 OF 2014 DATED 28.3.2014 ON THE FILE OF THE 3RD ADDL. MUNSIF COURT, THRISSUR.  
EXT.P3: COPY OF THE SUIT FILED IN OS NO.4014 OF 2014 DATED 21.6.2014 ON THE FILE OF THE MUNSIF COURT, THRISSUR.  
EXT.P4: COPY OF THE ORDER PASSED IN IA NO.12537 OF 2014 IN EXT.P3 SUIT DATED 24.6.2014 ON THE FILE OF THE MUNSIF COURT, THRISSUR.  
EXT.P5: COPY OF THE ORDER PASSED IN EP NO.1039 OF 2014 IN OS NO.1573 OF 2014 DATED 14.8.2014 ON THE FILE OF THE MUNSIF COURT, THRISSUR.  
EXT.P6: COPY OF THE JUDGMENT IN OP(C)NO.1926 OF 2014 DATED 21.8.2014 ON THE FILE OF THIS HON'BLE COURT.  
EXT.P7: COPY OF THE AFFIDAVIT FILED BY THE PETITIONER IN THE EXECUTION COURT DATED 25.8.2014.  
EXT.P8: COPY OF THE APPLICATION FILED BY THE FIRST RESPONDENT HEREIN AS EA NO.1400 OF 2014 IN THE EXECUTION PETITION DATED 29.8.2014.

RESPONDENT(S) ' EXHIBITS

EXT.R1 (a) : A TRUE COPY OF THE COMPROMISE PETITION DATED 27.3.2014 FILED BY PLAINTIFF AND DEFENDANT  
EXT.R1 (b) : A TRUE COPY OF THE INTERIM ORDER DATED 18.7.2014 IN O.P(c) No.1639/2014 OF THE HIGH COURT OF KERALA  
EXT.R1 (c) : A TRUE COPY OF THE JUDGMENT DATED 29.8.2014 IN O.P(c) No.1639/2014 OF THE HIGH COURT OF KERALA  
EXT.R1 (d) : A TRUE COPY OF THE JUDGMENT DATED 29.8.2014 IN O.P(c) No.1926/2014 OF THE HIGH COURT OF KERALA

//TRUE COPY//

P.A TO JUDGE

vdv

**K. ABRAHAM MATHEW, J.**

-----  
**O.P.(C)No.2245 of 2014**  
-----

**Dated this the 3<sup>rd</sup> day of December, 2015**

**J U D G M E N T**

The petitioner and the first respondent are children of the second respondent. The first respondent has obtained a decree for possession against the second respondent in OS.1573 of 2014. Claiming that he was a licensee under the second respondent and the petitioner filed OS.4014 of 2014 for a perpetual injunction prohibiting the respondents from dispossessing him except in accordance with law. He filed an application for temporary injunction. He also filed an application under Order 21 Rule 97 CPC in the execution proceedings in OS.1573 of 2014. Complaining that the trial court did not take up his application for temporary injunction filed in OS.1573 of 2014 he filed OP 1926 of 2014 this court passed the following order:-

***"The petitioner shall not be dispossessed from the premises in the meanwhile except in accordance with the mandate of the order in IA.No.12537 of 2014 in OS.No.4014 of 2014".***

The petitioner filed an affidavit in the executing court stating that this court had passed an order restraining the respondents from dispossessing him. The executing court took the view that there was no order of injunction passed by this court and initiated proceedings against the petitioner for filing false affidavit. Meanwhile, the parties have settled the matter. The prayer in the OP is to drop the proceedings initiated against the petitioner.

2. Heard.

3. I have quoted the order passed by this court in OP 1926 of 2014. The direction was that the petitioner shall not be dispossessed of the property till an order is passed in IA.12537 of 2014. It amounts to nothing but an injunction. I do not know how the learned Munsiff interpreted it otherwise. The proceedings initiated against the petitioner shall be dropped immediately. The parties may report the settlement of the dispute before the executing court.

In the result this OP is allowed directing the learned Munsiff to drop the proceedings initiated against the petitioner for allegedly filing false affidavit and to record

settlement of the dispute if the parties report the matter.

sd/-

**K. ABRAHAM MATHEW**  
**JUDGE**

R.AV

//True Copy//

PA to Judge