

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT:
THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

OP(C).No. 2535 of 2014 (O)

AGAINST THE ORDER IN OS 5/2012 of III ADDL. DISTRICT COURT, THRISSUR
DATED 30-07-2014

PETITIONER(S) :

1. BABU AGED 59 YEARS
S/O CHUNGATH STANLEY, CHUNGATH HOUSE
MILK SOCIETY ROAD, KANIPPAYOOR P.O.
KUNNAMKULAM-680517.
2. JOSEPH
S/O CHUNGATH STANLEY, CHUNGATH HOUSE
OPPOSITE AMMA SUPER MARKET, NELLANKARA
THRISSUR-680005.
3. SHAJU
S/O CHUNGATH STANLEY, CHUNGATH HOUSE, KADAVIL ROAD
CHEMBUKAVU, THRISSUR-680 020.

BY ADVS.SRI.S.SANTHOSH KUMAR
SMT.P.LISSY JOSE.
SRI.S.VINODKUMAR

RESPONDENT(S) :

1. GRACY
W/O CHUNGATH STANLEY, KOTTAPADI ANGADI, POOKODU DESOM
CHAVAKAD TALUK, THRISSUR-680505.
2. RUBY,
W/OKOLENCHERRY JOJO, SKYLINE, GREENVALLEY NO.5
VAZHAKKALA ROAD, THRIKKAKARA, KOCHI-682021.
3. LAILA
W/O DR.A.J.MATHACHAN, DAFFODIL
NEAR SACRED HEART COLLEGE, RAILWAY STATION ROAD
CHALAKUDY-680307.
4. JOLLY
W/O PARACKAL JOSE, KARAYIL DESOM, VADAKKUMBHAGOM
MANJAPRA VILLAGE, ALUVA-683581.
5. REETHA
W/O JOSE THOTTIL, WEST HILL, WHRA HOUSE NO.121
KGOSASI KUNNU, KURIYACHIRA, THRISSUR-680006.
6. LILLY
W/O KANICHAIR ANTONY, 28 SRINAGAR, CHAMPUKUDUR ROAD
NEAR GANDHI PARK, COIMBATORE-645001.
7. LUCKY MOL
W/O LUCKY SABU VARGHESE, OOKKEN HOUSE, LUCKY MANOR
331 , 3RD CROSS, 7TH MAIN
VIVEK NAGAR, BANGALORE-560047.

R4 BY ADV. SRI.G.SREEKUMAR (CHELUR)
R3,R6 BY ADV. SRI.C.A.ANOOP

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 23-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: A TRUE COPY OF WILL DATED 17.11.1990 EXECUTED BY CHUNGATH
STANLEY, THE FATHER OF THE PETITIONERS.

EXHIBIT P2: A TRUE COPY PETITION IN LOP 3/2008 FILED BEFORE THE
DISTRICT COURT, THRISSUR.

EXHIBIT P3: TRUE COPY OF OBJECTION DATED 10.6.2009 FILED BY THE
RESPONDENTS 1,2,3,5 AND 6 IN LOP 3/08 BEFORE DISTRICT
COURT, THRISSUR.

EXHIBIT P4: TRUE COPY OBJECTION DATED 28.11.2008 FILED BY 4TH
RESPONDENT IN LOP 3/08 BEFORE DISTRICT COURT, THRISSUR.

EXHIBIT P5: TRUE COPY PLAINT IN OS NO.595/2007 OF MUNSIF COURT,
CHAVAKKAD.

EXHIBIT P6: TRUE COPY ORDER IN OS NO.595/2007 OF MUNSIF COURT,
CHAVAKKAD.

EXHIBIT P7: TRUE COPY ORDER DATED 30.7.2014 IN OS NO.5/2012 (LOP
NO.3/2009) OF THE II ADDITIONAL DISTRICT JUDGE, THRISSUR.

RESPONDENT(S)' EXHIBITS NIL

//TRUE COPY//

P.A TO JUDGE

vdv

K.ABRAHAM MATHEW, J.

=====

O.P(C)No.2535 of 2014

=====

Dated this the 23rd day of December, 2015

JUDGMENT

Petitioners are the plaintiffs in O.S No.5 of 2012 of 3rd Additional District Judge, Thrissur. It was originally filed as O.P for Letters Of Administration No.3 of 2008. The respondents have filed O.S No.595 of 2007 before the Munsiff Court, Chavakkad for partition. In both suits genuineness of a will allegedly executed by the predecessor of the parties is in issue. The learned District Judge by Ext.P7 order stayed the proceedings in the suit before him. This is challenged in this O.P.

2. Heard.

3. The issue regarding genuineness of will can be decided in both suits. But the issues relating to partition can be decided only in the suit before the Munsiff Court. The suit for partition is a comprehensive suit. The learned District Judge was right in staying the trial of the suit before him.

4. There is also a prayer to transfer the suit pending before the Munsiff Court to Additional District Court for joint trial with the other suit. This cannot be done for various reasons.

In the result, this O.P is dismissed. The Munsiff Court shall try to dispose of the suit within four months from the date on which it becomes ripe for trial.

Sd/-

K.ABRAHAM MATHEW , JUDGE

vdv/23/12/15