

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

OP(C).No. 2718 of 2014 (O)

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(I.A.1150/14 IN O.S.297/12 OF MUNSIFF COURT, KAYAMKULAM)

PETITIONERS/PLAINTIFFS:

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1. LEELAMMA, AGED 53 YEARS  
KUNNATHUVILAYIL VEEDU, KADUVINAL P.O., VALLIKKUNNAM.
2. PRAKASH AGED 56 YEARS  
S/O.PARAMESWARAN, -DO-

BY ADVS.SRI.R.SUNIL KUMAR  
SMT.A.SALINI LAL

RESPONDENT:

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SUGUNAN, AGED 70 YEARS  
KUNNATHUVILAYIL, KADUVINAL, VALLIKKUNNAM - 690 502.

R1 BY ADV. SRI.BINNY.A.THOMAS

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 23-01-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 2718 of 2014 (O)

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APPENDIX

PETITIONER(S)' EXHIBITS :

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- EXT.P-1: COPY OF THE PLAINT IN O.S.NO.297/12.
- EXT.P-2: COPY OF THE WRITTEN STATEMENT IN O.S.NO.297/12.
- EXT.P-3: COPY OF THE PETITION IN I.A.NO.1150/14 IN O.S.NO.297/12.
- EXT.P-4: COPY OF THE OBJECTION IN I.A.NO.1150/14 IN O.S.NO.297/12.
- EXT.P-5: COPY OF THE ORDER IN I.A.NO.1150/14 IN O.S.NO.297/12 OF  
THE MUNSIFF'S COURT, KAYAMKULAM.

RESPONDENT(S)' EXHIBITS: NIL

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// True Copy //

P.A. To Judge.

smp

**P.BHAVADASAN, J.**

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**Original Petition (Civil) No.2718 OF 2014**  
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**Dated this the 23<sup>rd</sup> day of January, 2015.**

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

On the basis of a contention taken in the written statement that the property shown belonged to defendant did not actually belong to him alone but to his wife also who is not shown as party to the suit and contending that she is a necessary party to the suit, the defendant had prayed for dismissal of the suit.

2. True, for a long time plaintiffs did nothing. But, wisdom dawn on them when suit was listed for trial and they moved an application for impleading the wife of the defendant as additional defendant in the suit. That petition was dismissed as highly belated.

3. Whatever that be, in the light of the contention taken by the sole defendant in the suit that his wife is a joint owner of the property and the suit will not lie, it is only proper that the wife of the sole defendant be brought on the party array so as to have an effective decree passed.

4. In the petition, notice was ordered on the respondents and they have been served notice. No objection is seen raised by them before this Court.

5. In the light of the fact that the contention taken is one of non joinder of necessary party, it is only appropriate that the petition be allowed and the wife of the defendant be arrayed as additional defendant.

In the result, this petition is allowed and the impugned order is set aside and I.A.No.1150/2014 filed by the petitioners before the court below for impeaching the wife of the defendant shall stand allowed and the petitioners will take such steps as are necessary to have the amendments carried out before the court below.

Sd/-

**P.BHAVADASAN**  
**JUDGE**

smp