

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

OP(C).No. 2913 of 2014 (O)

ORDER DTD.31.10.2014 IN IA.866/2014 IN OS.NO.75/2013 OF SUB COURT,
THODUPUZHA

.....

PETITIONER(S)/PLAINTIFF:

SONU SEBASTIAN, AGED 29 YEARS,
W/O. JAYAN, KUTTICHAKKU VEETIL,
CHALAKKUDY VILLAGE (SOUTH), MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.

BY ADVS.SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA
SRI.K.D.SREEVISAKH

RESPONDENT(S)/DEFENDANTS 1 TO 3:

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1. SEBASTIAN,
S/O. VALYANICKAL JOHN, MYLAKOMBU KARAL,
KUMARAMANGALAM VILLAGE, TODUPUZHA TALUK,
IDUKKI DISTRICT - 685 608.
2. JOSE DEVASSIA,
S/O. KOTTARATHIL DEVASSY, VENGALLOOR KARA,
KUMARAMANGALAM VILLAGE, THODUPUZHA TALUK,
IDUKKI DISTRICT - 685 608.
3. BOBY JOSE,
S/O. THAZHATHUVEETIL JOSE, NAGAPUZHA KARA,
KALLOORKKADU VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT - 686 668.

R1 BY ADV. SRI.UNNIKRISHNAN V. ALAPATT

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 03-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

OP(C).No. 2913 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - TRUE COPY OF PLAINT LIN OS 75/2013 ON THE SUB COURT, THODUPUZHA.

P2 - TRUE COPY OF WRITTEN STATEMENT IN OS 75/2013 SUB COURT, THODUPUZHA.

P3 - TRUE COPY OF JOINT WRITTEN STATEMENT FILED BY THE 2 & 3 DEFENDANTS
IN OS 75/2013 SUB COURT, THODUPUZHA.

P4 - TRUE COPY OF MEMORANDUM OF CRIMINAL MC 3085/2012 BEFORE THIS
HONOURABLE COURT. (WITHOUT ANNEXURES)

P5 - TRUE COPY OF THE APPLICATION FOR AMENDMENT FILED IN OS 75/2013
BEFORE THE SUB COURT, THODUPUZHA.

P6 - TRUE COPY OF IA 866/2014 IN OS 75/2014.

P7 - TRUE COPY OF ORDER IN IA 866/2014 IN OS 75/2013 ON THE FILE OF THE SUB
COURT, THODUPUZHA DT. 31.10.2014.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B. KEMAL PASHA, J.

.....
O.P.(C) No.2913 of 2014
.....

Dated this the 3rd day of July, 2015

J U D G M E N T

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Ext.P7 order is under challenge. It is the case of the petitioner that her Power of Attorney was fraudulently obtained by her father and on the strength of the Power of Attorney, he has alienated her properties. When the documents of sale allegedly executed by the father were produced before the court below, it could be seen that the photographs of the petitioner are affixed on the sale deeds and a thump impression was also affixed beneath the photograph. According to the petitioner, the thump impression was not affixed by her. It is the admitted case of both sides that the sale deeds were executed by the father of the petitioner on the strength of the Power of Attorney. The petitioner wanted to examine as to whose thump impression is there in the documents. Further, the petitioner

wants to prove that the thump impression affixed in the documents was not affixed by her. She has applied for sending the documents to an expert for obtaining the expert opinion with regard to the thump impression. It seems that the court below, through Ext.P7 order, has dismissed the IA by holding that the thump impression does not belong to the petitioner. From what material the court below has arrived at such a decision is not discernible from Ext.P7 order. It seems that it is only legitimate interference made by the court below that the thump impressions are not those of the petitioner.

2. The respondent was also not standing in the way of sending the documents for expert opinion. When such serious matters are involved, an expert opinion is required. The court below ought not have turned down the request of the petitioner. Ext.P7 is liable to be set aside.

In the result, this O.P.(Civil) is allowed and Ext.P7 is set aside. Ext.P6 IA stands allowed. The court below shall

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send the documents for expert opinion and the petitioner shall take appropriate steps as may be ordered by the court below.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/03/07

// True Copy //

PA to Judge