

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

OP(C).No. 3086 of 2014 (O)

IA.NO.2302/2014 IN OS 419/2014 of MUNSIFF COURT, CHANGANACHERRY

PETITIONERS:

- 1. JOHNY GEORGE @ JOHNICHAN, AGED 42 YEARS
S/O.GEORGE VARGHESE (LATE), PUTHIYAPARAMBBIL
NEDUMKUNNAM P.O., CHANGANASSERY, KOTTAYAM.**
- 2. MARIYAMMA GEORGE, AGED 86 YEARS
W/O.LATE GEORGE VARGHESE, PUTHIYAPARAMBBIL
NEDUMKUNNAM P.O., CHANGANASSERY, KOTTAYAM.**

**BY ADVS.SRI.LALJI P.THOMAS
SRI.DEEPAK THOMAS**

RESPONDENT(S):

**GEORGE JOSEPH PANJIKARAN, AGED 51 YEARS
S/O.ANTONY PANJIKARAN, HOUSE NO. 302, GANDHI NAGAR
THYCAUD P.O., THIRUVANANTHAPURAM - 695 014.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 27-01-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE SUIT IN O.S.NO. 419/2014 FILED BY THE RESPONDENT ON 21/10/2014 FOR PERMANENT PROHIBITORY INJUNCTION BEFORE THE MUNSIF COURT, CHANGANASSERY.
- EXHIBIT P2: TRUE COPY OF I.A. IN O.S.NO. 419/2014 FILED BY THE PETITIONER BEFORE THE MUNSIF COURT, CHANGANASSERY.
- EXHIBIT P3: TRUE COPY OF THE REVIEW PETITION FILED BY THE 1ST PETITIONER DATED 05/12/2014 BEFORE THE MUNSIF COURT, CHANGANASSERY.
- EXHIBIT P4: TRUE COPY OF THE B DIARY OF THE MUNSIF'S COURT, CHANGANASSERY.
- EXHIBIT P5: TRUE COPY OF THE ORDER DATED 02/12/2014 IN I.A.NO. 2302/2014 IN O.S.NO. 419/2014 OF THE COURT OF THE MUNSIF, CHANGANASSERY.
- EXHIBIT P6: TRUE COPY OF THE COMMISSION REPORT FILED BY THE ADVOCATE COMMISSIONER IN I.A.NO. 2077/2014 IN OS.419/14 BEFORE THE MUNSIF COURT, CHANGANASSERY.
- EXHIBIT P7: TRUE COPY OF PERMISSION FEE FOR AN AMOUNT OF RS.102/- FOR CONSTRUCTION ISSUED BY THE NEDUMKUNNAM GRAMA PANCHAYAT DATED 6/12/14.
- EXHIBIT P8: TRUE COPY OF THE PROPERTY TAX FOR AN AMOUNT OF RS.1,462/- REGARDING THE BUILDING (RESIDENTIAL) ISSUED BY THE NEDUMKUNNAM GRAMA PANCHAYAT DATED 6/12/14
- EXHIBIT P9: TRUE COPY OF THE OWNERSHIP CERTIFICATE ISSUED BY THE NEDUMKUNNAM GRAMA PANCHAYATH DATED 30/11/14
- EXHIBIT P9(A): TRUE COPY OF OWNERSHIP CERTIFICATE ISSUED BY THE NEDUMKUNNAM GRAMA PANCHAYATH DATED 5/12/14.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P. BHAVADASAN, J.

O.P.(C). No. 3086 of 2014

Dated this the 27th day of January, 2015.

JUDGMENT

This is a petition filed under Article 227 of the Constitution of India for the following reliefs:

- "i) Call for the lower court records leading to Exts. P1 to P3.
- ii) issue an appropriate direction directing the court below not to take any action by the respondent against the petitioners by creating any further more documents by the way of malpractice.
- iii) such other appropriate order or direction as this Hon'ble Court may deem fit and proper to meet the ends of justice."

2. The petitioners are the defendants in the suit, i.e., O.S.419 of 2014 pending before the Munsiff's Court, Changanassery. That was a suit instituted by the

plaintiff seeking a decree for prohibitory injunction restraining the defendants in the suit from constructing the building of which the plaintiff has undertaken construction without his permission and completing the construction. Defendants entered appearance and filed the written statement.

3. This Court is given to understand that there is no interim order passed by the court below. Asper the averments in the original petition, this Court is given to understand that the construction of the house is over and house warming ceremony was conducted and the defendants are residing in the house. If that be so, one fails to understand what is left in the suit. The main grievances voiced by the petitioners is that though the court appointed one Adv.Satheesh as the Commissioner, the commission report was filed by somebody else and it is a grave illegality

and also that the petitioners before this court is unable to reside peacefully in the house.

4. First of all, copy of the commission report filed by the Commissioner is not produced before this Court. So this Court is not in a position to know the circumstances under which the person other than the person appointed happened to file the report.

5. As far as the second relief is concerned, the petitioners have to seek the appropriate remedy elsewhere.

This Original Petition is without merits and it is accordingly dismissed.

sb.

P. BHAVADASAN,
JUDGE