

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

OP(C).No. 3088 of 2014 (O)

OS.NO. 436/2007 OF PRINCIPAL SUB COURT, ERNAKULAM

PETITIONER(S)/PLAINTIFFS:

1. M/S.GRAND ENTERPRISES,
A PARTNERSHIP FIRM REGISTERED UNDER THE
INDIAN PARTNERSHIP ACT WITH REG. NO. 767/1964,
M.G.ROAD, ERNAKULAM, KOCHI - 682 035,
REP. BY PARTNER SRI.K.J.FRANCIS,
S/O.LATE K.J.JOSEPH,AGED 59 YEARS,
RESIDING AT KOTTOOR HOUSE, UDAYAMPEROOR - 682 307.
2. K.J.FRANCIS,S/O.LATE K.J.JOSEPH, AGED 59 YEARS,
PARTNER, GRAND ENTERPRISES,
RESIDING AT KOTTOOR HOUSE, UDAYAMPEROOR - 682 307.
3. K.J.JOSEPH,S/O.LATE K.J.JOHN,AGED 36 YEARS,
PARTNER, GRAND ENTERPRISES,
RESIDING AT KOTTOOR HOUSE, UDAYAMPEROOR - 682 307.
4. K.J.GEORGE,S/O.LATE K.J.JOHN,AGED 34 YEARS,
PARTNER, GRAND ENTERPRISES,
RESIDING AT KOTTOOR HOUSE, UDAYAMPEROOR - 682 307.
5. RITA JOHN,W/O.LATE K.J.JOHN,AGED 59 YEARS,
PARTNER GRAND ENTERPRISES,
RESIDING AT KOTTOOR HOUSE, UDAYAMPEROOR - 682 307.

BY ADVS.SRI.V.M.KURIAN
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS
SRI.N.SUNIL

RESPONDENT(S)/DEFENDANTS:

1. STATE OF KERALA,
REPRESENTED BY THE DISTRICT COLLECTOR, ERNAKULAM,
COLLECTORATE, CIVIL LINES, KAKKANAD,ERNAKULAM - 682 030.
2. THE DISTRICT COLLECTOR,
ERNAKULAM, COLLECTORATE, CIVIL LINES,
KAKKANAD, ERNAKULAM - 682 030.

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3. THE TAHSILDAR,
KANAYANNUR TALUK, KANAYANNUR TALUK OFFICE,
ERNAKULAM - 682 011.

BY GOVERNMENT PLEADER SRI.REJI JOSEPH

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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OP(C).No. 3088 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE PLAINT IN O.S.NO. 436/2007 OF THE SUB COURT, ERNAKULAM.
- EXHIBIT P2: TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE RESPONDENT IN O.S.NO. 436/2007 OF THE SUB COURT, ERNAKULAM.
- EXHIBIT P3: TRUE COPY OF THE I.A.NO. 1436/2010 FILED BY THE PETITIONERS.
- EXHIBIT P4: THE TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE RESPONDENTS IN I.A. 1436/2010.
- EXHIBIT P5: THE TRUE COPY OF I.A.NO. 3623/2010 FILED BY THE PETITIONERS.
- EXHIBIT P6: TRUE COPY OF THE COUNTER FILED BY JOINT SECRETARY TO THE GOVERNMENT.
- EXHIBIT P7: TRUE COPY OF APPLICATION AS I.A.NO. 5312 OF 2014 FILED BY THE PETITIONERS.
- EXHIBIT P8: TRUE COPY OF OBJECTION FILED BY THE RESPONDENT.
- EXHIBIT P9: TRUE COPY OF ORDER DATED 10/12/2014 IN I.A.NO. 5312/2014.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.S.TO JUDGE

sts

B.KEMAL PASHA, J.

.....
O.P.(C) No. 3088 of 2014
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Dated this the 25^h day of June, 2015

J U D G M E N T

Petitioners are claiming assignment of a piece of land abutting the M.G. Road, Ernakulam, allegedly made in the year 1958. The alleged assignment of that piece of land is not admitted by the Government. The petitioners have produced the photocopies of some documents to show that there were assignment orders. By styling those photocopies as documents within the meaning of Order XII Rule 2 of the Code of Civil Procedure, 1908, the petitioners have called upon the Government to admit the genuineness of those documents through I.A.No.5312 of 2014 in O.S.No.436 of 2007.

2. A counter statement has been filed by stating that

the files relating to the so called assignment of the year 1958 are not available with the Government and therefore, they are neither in a position to admit nor deny the genuineness of those photographs. The court below has dismissed the IA through Ext.P9 order by recording the said fact. According to the court below, the originals of those “documents” are not available and therefore, the defendants are not in a position to admit the documents. There is absolutely nothing to interfere with Ext.P9 order passed by the court below in the matter. The said order does not suffer from any illegality, irregularity or jurisdictional error. Hence, this petition is liable to be dismissed.

In the result, this Original Petition is dismissed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge