

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYAISHTA, 1937

RP.No. 408 of 2015 () IN CRP.383/2009

AGAINST THE ORDER IN CRP 383/2009 of HIGH COURT OF KERALA DATED 11-02-2015.

PETITIONERS/RESPONDENTS IN THE REVISION PETITION :

1. **PARUKUTTY, W/O VELAYUDHAN, AGED 69 YEARS,
KANNAMPALLIL HOUSE, KUMBALANGI, KOCHI -7.**
2. **K.V.SASIKALA MOHAN, W/O MOHANAN, AGED 50 YEARS,
KEZHEKUTTY, NEAR ST.PETERS HIGH SCHOOL,
KUMBALANGI, KOCHI.**
3. **K.V.SHAJI, S/O VELAYUDHAN, AGED 48 YEARS,
KANNAMPALLIL HOUSE, KUMBALANGI, KOCHI -7.**
4. **K.V.SHYLAN, S/O VELAYUDHAN, AGED 48 YEARS,
KANNAMPALLIL HOUSE, KUMBALANGI, KOCHI -7.**
5. **SHEELA ASHOKAN, W/O P.S.ASHOKAN, AGED 44 YEARS,
PANACHICKAL HOUSE, AROOR P.O., ALAPPUZHA.**
6. **AJITHA SAJU, W/O SAJU, AGED 42 YEARS,
PANDARAPARAMBU HOUSE, NEAR ST.PETERS HIGH SCHOOL,
KUMBALANGI, KOCHI.**
7. **SEENA SANTHOSH, W/O A.K.SANTHOSH, AGED 40 YEARS,
ARACKAPARAMBIL HOUSE, THANGAL NAGAR,
PALLURUTHY P.O, KOCHI -6.**
8. **K.V.SABU, S/O VELAYUDHAN, AGED 38 YEARS,
KANNAMPALLIL HOUSE, KUMBALANGI, KOCHI -7.**

**BY ADVS.SRI.A.BALAGOPALAN.
SRI.A.RAJAGOPALAN.
SRI.M.N.MANMADAN.**

RESPONDENT/REVIEW PETITIONER :

**PONNAPPAN, S/O LATE ITTACHI, AGED 53 YEARS,
MOOTHATTU HOUSE, KUMBALANGI MURI,
KUMBALANGI VILLAGE, KOCHI TALUK, KOCHI -7.**

BY SRI.G.KRISHNAKUMAR.

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 03-06-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

amk

A.HARIPRASAD, J.

R.P No.408 of 2015

in

C.R.P No.383 of 2009

Dated this the 3rd day of June, 2015.

ORDER

Review petition filed by the respondents in C.R.P No.383 of 2009.

2. Heard the learned counsel for the review petitioners and the petitioners in C.R.P.

3. Learned counsel for the review petitioners submitted that there is an error apparent on the face of the judgment of this Court which requires correction by way of a review. In the judgment of the C.R.P dated 11-02-2015, following facts are dealt with. The plaintiffs/review petitioners approached the trial court with a suit essentially one under Section 6 of the Specific Relief Act claiming recovery of possession of plaint B schedule property on the strength of their previous possession. Interestingly, along with that prayer they sought for a decree for mandatory injunction and also a decree for prohibitory

injunction. This Court considered the argument advanced by the petitioner in the C.R.P that the suit is not maintainable because the scope of a suit under Section 6 of the Specific Relief Act has been extensively widened by incorporating prayers claimable in a regular suit. This Court considered that the crux of the matter to be proved in a suit under Section 6 of the Specific Relief Act is only with regard to possession of the plaintiff over the property within a period of six months before his dispossession. The Section itself provides a period of limitation for filing such a suit. It is settled law that title to the property is not a material factor to be determined in a suit of this nature. It is further settled that a suit under Section 6 is only in the nature of a summary suit where only a revision alone is provided in case anybody is aggrieved by the decree. The nature of a suit for mandatory injunction or prohibitory injunction is entirely different from one under Section 6 of the Specif Relief Act. Therefore, clubbing of the reliefs under Section 6 of the Act and other reliefs make the suit completely irregular.

4. Learned counsel for the review petitioners submitted that the decisions relied on by the petitioner in the C.R.P are not applicable to the questions involved in this case. It is true that the factual settings in the decisions relied on by the revision petitioners are entirely different from those in this case. But on first principle, it can only be found that the plaintiffs cannot seek in a suit under Section 6 of the Specif Relief Act any relief other than recovery of possession on the basis of their previous possession. It is axiomatic that denial of a right under Section 6 of the Specif Relief Act will in no way affect the right of the plaintiffs under other provisions of the Specif Relief Act, if they have a legal right to make a claim. Therefore, I do not find any error apparent on the face of the judgment. Hence the review petition is dismissed.

All pending interlocutory applications will stand dismissed.

Sd/-
A.HARIPRASAD,
JUDGE.