

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

RPNo. 924 of 2014 (I)

(AGAINST THE JUDGMENT IN RFA.NO. 238/2011 DATED 28-05-2014)

REVIEW PETITIONER(S)/APPELLANTS:

1. SAROSHKUMAR, AGED 43 YEARS,
S/O.LATE AMBUJAKSHAN, RESIDING AT PULLOMPARAMBIL,
PALARIVATTOM, ERNAKULAM.
2. SARATHKUMAR, AGED 42 YEARS,
S/O.LATE AMBUJAKSHAN, RESIDING AT PULLOMPARAMBIL,
PALARIVATTOM, ERNAKULAM.
3. SHYAMKUMAR, AGED 44 YEARS,
S/O.LATE AMBUJAKSHAN, RESIDING AT PULLOMPARAMBIL,
PALARIVATTOM, ERNAKULAM.
4. ASHA, AGED 46 YEARS,
D/O.LATE AMBUJAKSHAN, RESIDING AT PULLOMPARAMBIL,
PALARIVATTOM, ERNAKULAM.
5. BHAIMI, AGED 71 YEARS,
W/O.LATE AMBUJAKSHAN, RESIDING AT PULLOMPARAMBIL,
PALARIVATTOM, ERNAKULAM.
6. NISHI, AGED 40 YEARS,
D/O.LATE CHANDRAN, RESIDING AT PULLOMPARAMBIL,
PALARIVATTOM, ERNAKULAM.
- *7. P.S.MANI, AGED 64 YEARS,
S/O.LATE SUKUMARI & RAMAKRISHNAN, RESIDING AT CHITRA,
PALACHUVADU P.O., KAKKANADU. (DIED)

*ADDL.PETITIONERS 8 TO P10 IMPEADED

*ADDL.P8: K.GOMATHY, W/O.LATE P.S.MANI,
RESIDING AT CHITRA, PALACHUVADU.P.O.,
KAKKANADU.

*ADDL.P9: REJESH MANI.P., S/O.LATE P.S.MANI,
RESIDING AT CHITRA, PALACHUVADU.P.O.,
KAKKANADU.

R.P.NO.924/2014

*ADDL.P10: RENJITHA MANI.P., D/O.LATE P.S.MANI,
RESIDING AT CHITRA, PALACHUVADU.P.O.,
KAKKANADU.

*ADDL.P8 TO P10 ARE IMPEADED AS PER ORDER DATED 21/08/2015
IN IA.NO.11/2015.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENT(S)/RESPONDENTS 1,3,4,6,7,8,9,10 AND LEGAL HEIRS OF DESEASED
11TH RESPONDNT.:

1. P.K.AMBUJAKSHAN,
S/O.NARAYANAN @ KANDAN, PULLOMPARAMBIL HOUSE,
PALARIVATTOM, ERNAKULAM-682 025.
2. P.K.SAROJINI, AGED 81 YEARS,
W/O LATE KARUNAN, RESIDING AT KOLAVELIPADATH,
LABOUR JUNCTION, EROOR.P.O, TRIPUNITHURA,
ERNAKULAM DSITRICT-682 306.
3. P.S.JAYAN, AGED 61 YEARS,
S/O.LATE SUKUMARI AND RAMAKRISHNAN, RESIDING AT
THALAMITTAM VEEDU, THAIKOODAM, UDAYA ROAD,
VYTTILA, COCHIN-682 019.
4. RAJI, D/O.LATE VELAYUDHAN,
PULLOMPARAMBIL HOUSE,
PALARIVATTOM, ERNAKULAM-682 025.
5. MOHINI, D/O LATE VELAYUDHAN,
PULLOMPARAMBIL HOUSE,
PALARIVATTOM, ERNAKULAM-682 025.
6. KALA, D/O.LATE VELAYUDHAN,
PULLOMPARAMBIL HOUSE,
PALARIVATTOM, ERNAKULAM-682 025.
7. KUNJAN,S/O.LATE VELAYUDHAN,
PULLOMPARAMBIL HOUSE,
PALARIVATTOM, ERNAKULAM-682 025.
8. P.K.VASUDEVAN, AGED 89 YEARS,
S/O.NARAYANAN @ KANDAN,
PULLOMPARAMBIL HOUSE,
PALARIVATTOM, ERNAKULAM-682 025.
9. BAIJU, S/O.SACHIVOTHAMAN,
PULLOMPARAMBIL HOUSE, PALARIVATTOM,
ERNAKULAM-682 025.

R.P.NO.924/2014

10. NIJA, D/O.SACHIVOTHAMAN,
PULLOMPARAMBIL HOUSE, PALARIVATTOM,
ERNAKULAM-682 025.
11. SHIJU, S/O.SACHIVOTHAMAN,
PULLOMPARAMBIL HOUSE, PALARIVATTOM,
ERNAKULAM-682 025.
12. AMMINI,W/O.SACHIVOTHAMAN,
PULLOMPARAMBIL HOUSE, PALARIVATTOM,
ERNAKULAM-682 025.

(THE 11TH RESPONDENT IN THE APPEAL DIED AFTER THE JUDGMENT.
HENCE HIS LEGAL HEIRS ARE RESPONDENTS 11 AND 12 HEREIN)

R8 BY ADVS. SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.K.A.NOUSHAD
SRI.P.U.VINOD KUMAR
SRI.MITHUN BABY JOHN
SRI.J.RAMKUMAR
BY SRI.KRISHNA PRASAD. S

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD
ON 17-08-2015, THE COURT ON 21-08-2015 PASSED
THE FOLLOWING:

sts

T.R.RAMACHANDRAN NAIR & K.ABRAHAM MATHEW,JJ.

RP.No.924 OF 2014

in

R.F.A.No.238 of 2011

Dated this the 21st day of August, 2015

ORDER

K.Abraham Mathew, J.

Review petitioners were the appellants. By the judgment dated 28.5.2014 we dismissed the appeal confirming the decree passed by the trial court.

2. Many of the grounds stated in the petition are not even worthy of notice. So when the matter came up for hearing we asked the learned counsel as to the grounds on which review is possible. He identified grounds 10 and 14 only.

3. Ground No.10 runs thus: "Admissions recorded in a judgment or admission if any made in the pleadings in the prior proceedings can never be the criteria to decide the issue involved in the present suit." We have specifically discussed this point in our judgment and have given the reasons for taking the view that the admission recorded in a judgment is relevant under Section 21 of

the Evidence Act. We cannot sit in judgment over our own decision. So ground No.10 is not at all available for the petitioners to request for a review.

4. Ground No.14 reads thus: “Issues involved in the present proceedings can never be decided based on admission if any. The same will have to be based on the actual lie and location.” The thrust of the argument of the learned counsel is that no amount of admission will confer title on a party, for which he relies on the decision of the Supreme Court in ***Ambika Prasad Thakur v. Ram Ekbal Rai (AIR 1966 SC 605)*** and of this court in ***Sarojini v. Sanitha Trading Co. and others (1969 KLT 412)***. There is no quarrel about it. It is well settled that admission will not confer title to a property. But we have not held that the opposite party's claim of title to the property stands proved by the admission of the predecessor of the review petitioners. The question that came up for consideration was an entirely different one. It was whether the sale deed obtained by the predecessor of the review petitioners will enure to the benefit of all the members of the family. We found the point in favour of the opposite party.

5. None of the grounds mentioned in the review petition are valid to entertain this review petition, which is only to be dismissed.

In the result, this review petition is dismissed.

sd/-

T.R.RAMACHANDRAN NAIR,JUDGE

sd/-

K.ABRAHAM MATHEW,JUDGE

// True copy //

PA to Judge

pm