

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

RSA.No. 958 of 2015 ()

**AS 198/2009 of DISTRICT COURT, KOTTAYAM
OS 352/2007 of ADDL.MUNSIFF COURT, KOTTAYAM**

APPELLANT IN THE RSA/APPELLANT IN AS/APPELLANT IN OS :

**NAIJU PHILIP NAINAN, S/O. LATE V.V. NAINAN,
AGED 53 YEARS, KODUVELIL HOUSE, VADAVATHOOR P.O.,
VADAVATHOOR KARA, VIJAYAPURAMVILLAGE,
KOTTAYAM DISTRICT PIN - 686010.**

BY ADV. SRI.ABRAHAM GEORGE JACOB

RESPONDENTS IN RSA/RESPONDENTS IN AS/DEFENDANTS IN OS :

- 1. MARY THARIAN NINAN, W/O. LATE V.V. NAINAN, AGED 85 YEARS,
KODUVELIL HOUSE, VADAVATHOOR P.O., VADAVATHOOR KARA,
VIJAYAPURAM VILLAGE, KOTTAYAM TALUK,
KOTTAYAMD ISTRIC PIN - 686010.**
- 2. BIJU GEORGE NAINAN, S/O. LATE V.V. NAINAN, AGED 51 YEARS,
-DO- -DO- -DO- -DO-.**
- 3. DR. VIVI SUSAN DANIEL, D/O. LATE V.V. NAINAN AGED 64 YEARS,
-DO- -DO- -DO- -DO-.**
- 4. LAILA A. GEORGE, W/O. T.D. DANIEL, AGED 62 YEARS,
-DO- -DO- -DO- -DO-.**
- 5. SUJA C. MATHEN, W/O. KORAH MATHEN, AGED 59 YEARS,
-DO- -DO- -DO- -DO-.**

**THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION
ON 24-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

P.B.SURESH KUMAR, J.

R.S.A.No.958 of 2015

Dated this the 24th day of November, 2015

JUDGMENT

The plaintiff in a suit for partition is the appellant. The suit property belonged to one Nainan. The plaintiff is the son of Nainan. Nainan had two sons and three daughters. The plaintiff claimed 1/3rd share over the suit property alleging that the daughters of Nainan are not entitled to any share in the suit property. The trial court did not accept the case of the plaintiff that the daughters of Nainan are not entitled to any share in the suit property. Consequently, the suit was decreed declaring the 2/15th share of the plaintiff. The plaintiff took up the matter in appeal. The appellate court found that the plaintiff has not established his case that the daughters of Ninan are not entitled to any share in the property of their father. Consequently, the appellate court confirmed the decision of the trial court.

Aggrieved by the concurrent decisions, the plaintiff has come up in the second appeal.

2. Heard the learned counsel for the appellant.

3. The parties are Christians of Travancore area. The question as to whether the daughters are entitled to a share in the property of the father has been settled by the Apex Court in **Mary Roy and others v. State of Kerala and others** [1986 KLT 508(SC)].

In the light of the decision of the Apex Court in **Mary Roy and others v. State of Kerala and others** (supra), the appeal is without merits and the same is accordingly dismissed. All the interlocutory applications in the appeal are closed.

P.B.SURESH KUMAR, JUDGE.

smm