

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE SUNIL THOMAS

MONDAY, THE 3RD DAY OF AUGUST 2015/12TH SRAVANA, 1937

Tr.Appeal(C).No. 3 of 2014 () IN Tr.P(C).499/2013

AGAINST THE ORDER/JUDGMENT IN Tr.P(C) 499/2013 of HIGH COURT OF KERALA
DATED 01-04-2014

APPELLANT/PETITIONER:

JOHN J.ILLICKAN, AGED 56 YEARS
S/O LATE SHRI. JACOB J. ILLICKAN, GRACY BUNGALOW
PARATHODU, KANJIRAPPALLY
NOW RESIDING AT ILLICKAL HOUSE, S.A ROAD
PANAMPILLY NAGAR, KOCHI 682036

BY ADV. SRI.M.K.SHASHI KUMAR

RESPONDENT/RESPONDENT:

1. SMT.SHEELA PHILIP,, AGED 59 YEARS
W/O PHILIP MATHEW, THAZHEKKATTU HOUSE, EDAPPALLY P.O
ERNAKULAM 682024

2. RABECA,
W/O ABRAHAM KOSHI, PEEDIKAYIL VEEDU, AZHOOR
KOZHENCHERRY, PATHANAMTHITTA 689645

3. SUJA SAJAN
W/O SAJAN ABRAHAM, THADATHIL, KANJIKUZHI
MUTTAMBALAM, KOTTAYAM 686001

BY SRI. A.ANTONY

THIS TRANSFER APPEAL(CIVIL) HAVING BEEN FINALLY HEARD ON 03-08-2015
ALONG WITH Tr.APPEAL.03/2014, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**THOTTATHIL B. RADHAKRISHNAN &
SUNIL THOMAS, JJ.**

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Tr.Appeal.Nos.3 and 4 of 2014

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Dated this the 3rd day of August, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

Heard the learned counsel for the appellant.

2. This appeal is against an order by which the learned single Judge refused to transfer two suits invoking the power under Section 24 of the C.P.C.

3. The parties are siblings. The respondents who are the plaintiffs filed a suit in 2009 before the Sub Court, Pala. Two years thereafter, their brother who is the appellant before us filed another suit in 2011 before the Munsiff's Court, Kanjirappally. In 2013, the appellant applied to this Court for transfer of those two suits to a Sub Court in Ernakulam. The basis of the claim was that there were other matters inter partes pending before the Ernakulam Court. Being the dominus litis of O.S.No.200 of 2009, the respondents objected to the request for transfer of that suit. They also did not agree for transfer of the suit pending before the Kanjirappally Court.

4. Here, we may note that there are other litigations between the parties which stand transferred to the Court at

Kanjirappally. But, that by itself is no ground for transfer of these cases; that too, by the Division Bench, by entertaining an intra-court appeal under Section 5 of the High Court Act, when we are satisfied that the learned single Judge has appropriately appreciated the entire factual matters and has exercised discretion under Section 24 of the C.P.C. and refused to order transfer. The impugned order of the learned single Judge gives clear and mighty reasons for not ordering transfer of cases. We find no legal infirmity or jurisdictional error in the exercise of the jurisdiction of the learned single Judge. These appeals, therefore, fail.

In the result, these appeals are dismissed in limine.

Sd/-

THOTTATHIL B. RADHAKRISHNAN
Judge

Sd/-

SUNIL THOMAS
Judge

Sbna

True Copy /

P.A to Judge