

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

WP(C).No. 5508 of 2014 (K)

PETITIONER :

KARUNAKARAN,
RESIDING AT OODATHIL KIZHAKKATHIL,
PERINGALA P.O., KAYAMKULAM.

BY ADVS.SRI.R.RAJASEKHARAN PILLAI
SMT.SABINA JAYAN

RESPONDENT(S):

1. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVT. SECRETARIATE, THIRUVANANTHAPURAM-695 001.
2. THE REVENUE DIVISIONAL OFFICER,
CHENGANNUR, ALAPPUZHA.PIN-689 121
3. THE TAHASILDAR,
KARTHIKAPPALLY, HARIPAD.PIN-690 514

***ADDL.R4 TO R6 IMPEADED**

***ADDL.R4: SARASWATHY AMMA,
RESIDING AT KRISHNA VIHAR (OODATHIL),
PERINGALA MURI, KAYAMKULAM.**

***ADDL.R5: LATHA.S., D/O.SARASWATHY AMMA,
RESIDING AT KRISHNA VIHAR (OODATHIL),
PERINGALA MURI, KAYAMKULAM.**

***ADDL.R6: USHA.S., D/O.SARASWATHY AMMA,
RESIDING AT KRISHNA VIHAR (OODATHIL),
PERINGALA MURI, KAYAMKULAM.**

***ADDL.R4 TO R6 ARE IMPEADED AS PER ORDER DATED 02/07/2015 IN
IA.NO.3971/2014**

**R1 TO R3 BY GOVERNMENT PLEADER SRI.REJI JOSEPH
ADDL.R4 TO ADDL.R6 BY ADV. SRI.R.RAMADAS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02-07-2015,ALONG WITH OP(C).NO.493 OF 2014, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

sts

WP(C).No. 5508 of 2014 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1- TRUE COPY OF THE JUDGMENT DATED 8-3-2011 IN SA NO. 890/1997 OF THIS HON'BLE COURT.**
- EXHIBIT P2- TRUE COPY OF THE LETTER DATED 19-12-2011 FROM THE TAHASILDAR TO THE 1ST PETITIONER.**
- EXHIBIT P3- TRUE COPY OF THE LETTER DATED 15-3-2012 FROM THE TAHASILDAR TO THE 1ST PETITIONER.**
- EXHIBIT P4- TRUE COPY OF THE NOTICE DATED 14-9-2012 FROM THE TAHASILDAR TO THE PETITIONERS AND OTHERS.**
- EXHIBIT P5- TRUE COPY OF THE NOTICE DATED 10-6-2013 FROM THE TAHASILDAR TO THE PETITIONERS AND OTHERS.**
- EXHIBIT P6- TRUE COPY OF THE ORDER DATED 12-2-2014 IN E.P.NO. 41/2011 IN OS NO. 184/1980 OF THE MUNSIFFS COURT KAYAMKULAM.**
- EXHIBIT P7- TRUE COPY OF THE ORDER DATED 17-2-2014 IN OPC NO. 493/2014 OF THIS HON'BLE COURT.**

RESPONDENT(S)' EXHIBITS:

- EXHIBIT R5(A)- TRUE COPY OF THE JUDGMENT DATED 30/09/1992 IN O.S.NO.184/1980 OF THE MUNSIFF COURT, KAYAMKULAM**
- EXHIBIT R5(B)- TRUE COPY OF THE JUDGMENT DATED 31/05/1997 IN A.S.NO.11 OF 1993 OF THE ADDITIONAL DISTRICT COURT, MAVELIKKARA**

/TRUE COPY/

P.S.TO JUDGE

sts

B.KEMAL PASHA, J.

.....
W.P.(C) No. 5508 of 2014 &
O.P.(C) No.493 of 2014
.....

Dated this the 2nd day of July, 2015

J U D G M E N T

Through Ext.P1 judgment passed by this Court in S.A.No.890 of 1997, a 31 year old litigation has come into a culmination. The subject matter is a *puramboke* land on which respondents claim possession and obtained a decree in second appeal, in continuation of the concurrent findings by the two courts below. The petitioners are also claiming possession over the property. At the time of passing the judgment in the second appeal it seems that the appellants had taken up a contention that assignment proceedings were going on. With regard to that, in the operative portion of the judgment the following findings were entered into by

this Court:-

“In case defendant applies for assignment, that shall be considered in accordance with law and this judgment will not stand in the way of taking appropriate decisions in the matter. Such decisions will be taken after hearing both sides.”

2. The present request of the petitioners is that they may be permitted to continue in the property till the culmination of the assignment process pending in respect of the property.

3. Heard the learned counsel for the petitioners and the learned counsel for the respondents.

4. It seems that the matter has been finalised by this Court through Ext.P1 judgment in the second appeal. When the respondents are clothed with a decree, this Court, at this stage, through this original petition cannot stall the execution proceedings. There is absolutely nothing to

interfere with the execution proceedings at present. Therefore, O.P.(C) No.493 of 2014 is devoid of merits, and is only to be dismissed, and I do so.

5. Through, W.P.(C) No.5508/2014 the petitioner has sought for a direction to the 2nd respondent to pass appropriate orders regarding the assignment of 12.5 cents of land comprised in Sy.No.93/40 (old Sy.No.191/3) of Kayamkulam Village. The 2nd respondent shall take a decision in the matter and dispose of the matter, as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment. While disposing of the matter, the 2nd respondent shall hear both sides.

W.P.(C) No.5508/2014 is disposed of with the above direction.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge