IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE SHIRCY V.

TUESDAY, THE 22ND DAY OF DECEMBER 2020 / 1ST POUSHA, 1942

OP(C).No.1648 OF 2020

AGAINST THE ORDER/JUDGMENT IN OS 290/2019 DATED 08-10-2020 OF MUNSIFF COURT,MUVATTUPUZHA

PETITIONER/S:

SOMAN
AGED 50 YEARS
S/O. CHOTHI, ANAKALLUNGAL HOUSE, VETTAAMBARA KARA, IRAPURAM VILLAGE, KUNNATHUNADU TALUK, ERNAKULAM DISTRICT, PIN-683 541.

BY ADVS.
SRI.ALEXANDER GEORGE
SHRI.RAJU S.
SHRI.AJIRAJ G.R.

RESPONDENTS/RESPONDENTS/PLAINTIFF

1 **JANAKI**
AGED 56 YEARS
W/O. SUKUMARAN, ANAKKALUMKAL HOUSE, VETTAMPARA P.O., PINDIMANA VILLAGE, KOTHAMANGALAM TALUK, PIN-686 681.

2 **SUJITH SUKUMARAN**
AGED 24 YEARS
S/O. SUKUMARAN, ANAKKALUMKAL HOUSE, VETTAMPARA P.O., PINDIMANA VILLAGE, KOTHAMANGALAM TALUK, PIN-686 681.

3 **KUMARAN**
HUSBAND OF LATE AMMINI, THERAPPARA HOUSE, KEEZHILLAM KARA, IRAPURAM VILLAGE, ERNAKULAM DISTRICT, PIN-683 541.

R1-3 BY ADV. SHRI.SACHIN RAMESH

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 17-12-2020, THE COURT ON 22-12-2020 DELIVERED THE FOLLOWING:

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. This petition has been filed challenging the order of the learned Munsiff, Muvattupuzha in I.A.No.1/2020 in O.S.No.290/2019. O.S.No.290/2019 is a suit filed for partition of the properties scheduled therein. Two items of properties are scheduled in the plaint. The defendant who is the petitioner herein has contended that plaintiffs have no right over both the properties as B schedule property was obtained by him by way of Settlement Deed No.5090/2014 executed by his mother. So the said property is not liable to be partitioned. But the court below in the injunction petition filed as I.A.No.1648/2019 restrained this petitioner from creating any documents or encumbering the same or committing wastes in the properties.

3. Though I.A.No.1/2020 was filed to review the order the court below has not considered the entire aspects and dismissed the application. Aggrieved by the said order, this O.P has been filed.

4. On going through the order under challenge and on hearing

the respective parties to the litigation, I find that the court below has not assigned adequate and special reasons to ignore a registered document or considered the entire aspects involved in the correct perspective while passing the review application. An order could have been made without prejudice to the right or interest of the petitioner over the B schedule property. Hence, the court below is directed to take up the review petition once again and hear both sides and pass appropriate orders afresh on merits.

This exercise has to be completed within a period of two months from the date of receipt of a copy of this judgment. The Original Petition (Civil) is disposed of accordingly.

Sd/-

SHIRCY V

JUDGE

smm

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**THE TRUE COPY OF THE PLAINT IN OS NO.290/2019 PENDING BEFORE THE MUNSIFF COURT, MUVATTUPUZHA**
EXHIBIT P2	**THE TRUE COPY OF THE IA NO.1648/2019 IN OS NO.290/2019 PENDING BEFORE THE MUNSIFF COURT MUVATTUPUZHA.**
EXHIBIT P3	**TRUE COPY OF THE COUNTER FILED BY THE PETITIONER IN IA NO.1648/2019.**
EXHIBIT P4	**THE TRUE COPY OF THE SETTLEMENT DEED NO.5090/2014 OF MUVATTUPUZHA SRO DATED 11.12.2014.**
EXHIBIT P5	**THE TRUE COPY OF THE DECREE PASSED BY THE HON'BLE MUNSIFF COURT, MUVATTUPUZHA IN OS NO.443/1981 DATED 20.12.1984.**
EXHIBIT P6	**THE TRUE COPY OF THE PROPERTY TAX PAID BY THE PETITIONER IN RESPECT OF THE B SCHEDULE PROPERTY DATED 19.10.2020.**
EXHIBIT P7	**TRUE COPY OF THE ORDER PASSED IN IA 1468/2019 PASSED BY THE HON'BLE MUNSIFF COURT MUVATTUPUZHA DATED 16.8.2019.**
EXHIBIT P8	**THE TRUE COPY OF THE IA NO.1/2020 IN OS NO.290/2019.**
EXHIBIT P9	**THE TRUE COPY OF THE COUNTER FILED BY THE FIRST RESPONDENT IN IA NO.1/2020.**
EXHIBIT P10	**THE TRUE COPY OF THE ORDER PASSED IN IA 1/2020 IN OS NO.290/2019 ON 8.10.2020.**