

Annamma Joseph Vs. Joseph

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SooperKanoon Citation : sooperkanoon.com/1130083

Court : Kerala

Decided On : Feb-25-2014

Judge : Honourable Mr.Justice V.Chitambaresh

Appellant : Annamma Joseph

Respondent : Joseph

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.CHITAMBARESH TUESDAY, THE 25TH DAY OF FEBRUARY 2014 6TH PHALGUNA, 1935 OP(C).No. 580 of 2014 (O) ----- AGAINST THE

ORDER

/

JUDGMENT

IN OS592013 of SUB COURT, PALA PETITIONER: ----- ANNAMMA JOSEPH, AGED 65 YEARS, W/O. JOSEPH, CHERUVELIL HOUSE, VATTAPARAMBIL KULATHINAPADIKKAL, VALLICHIRA P.O, VALLICHIRA VILLAGE MEENACHIL TALUK, KOTTAYAM DISTRICT. BY ADV. SRI. ALIAS M. CHERIAN RESPONDENT(S): ----- 1. JOSEPH, AGED 68 YEARS, S/O. ZACHARIAH, VYPANAYIL HOUSE, CHENNADU P.O PIN 686581, CHENNADU KARA, POONJAR THEKKEKARA VILLAGE,

MEENACHIL TALUK, KOTTAYAM DISTRICT2 ALEYAMMA, AGED60YEARS, W/O.SEBASTINE, KANDAKUDIYIL HOUSE, KAINADY P.O PIN686534, ALAPPUZHA DISTRICT.

3. GRIGORY, AGED66EARS, S/O.ZACHARIA, VYPANAYIL HOUSE, PULIYANOOR P.O PIN686573, PULIYANOOR VILLAGE, MEENACHIL TALUK KOTTAYAM DISTRICT.

4. ANTONY, AGED64YEARS, S/O.ZACHARIA, KAVANA,VYPANAYIL VAZHAKULAM P.O, MOOVATTUPUZHA TALUK ERNAKULAM DISTRICT, PIN686670.

5. ZCHARIA, AGED64YEARS, S/O.ZACHARIA, VYPANINIYIL HOUSE, PULIYANOOR P.O PIN686573, PULIYANOOR VILLAGE, MEENACHIL TALUK KOTTAYAM DISTRICT. OP(C).No. 580 of 2014 (O) -----2---

6. MICHAEL , AGED ABOUT63YEARS, S/O.ZACHARIA, MANGALATH HOUSE, ARUNAPURAM P.O PULIYANOOR VILALGE, MEENACHIL TALUK, PIN686574.

7. MARIYAMMA, AGED65EARS, W/O.FRANCIS, RESIDING ATTC6797 , VATTIYOORKAVU P.O THIRUVANANTHAPURAM PIN695013.

8. THOMAS, AGED62YEARS, S/O.ZACHARIA, VYPANANIL HOUSE, ARUNAPURAM P.O PULIYANOOR VILALGE, MEENACHIL TALUK, PALAPIN686574.

9. P.A.UTHUPPU, AGED70YEARS, S/O.IYPPE, PADATHIL HOUSE, NEYYASSERY P.O THODUPUZHA TALUK, IDUKKI DISTRICT, PIN685581.

10. TOGO, AGED70EARS, S/O.UTHUPPU, PADAATHIL HOUSE, NEYYASSERY P.O THODUPUZHA TALUK, IDUKKI DISTRICT, PIN685581 REPRESENTED BY POWER OF ATTORNEY HOLDER P.A.UTHUPPU AGED70EARS, S/O.IYPPE, PADATHIL HOUSE, NEYYASSERRY P.O THODUPUZHA TALUK, IDUKKI DISTRICT, PIN685581.

11. TANCY D/O.UTHUPPU, PADAATHIL HOUSE, NEYYASSERY P.O THODUPUZHA TALUK, IDUKKI DISTRICT, PIN685581 REPRESENTED BY

POWER OF ATTORNEY HOLDER P.A.UTHUPPU AGED70EARS, S/O.IYPPE, PADATHIL HOUSE, NEYYASSERRY P.O THODUPUZHA TALUK, IDUKKI DISTRICT, PIN685581.

12. TAJI AGED56YEARS, D/O.UTHUPPU, PADAATHIL HOUSE, NEYYASSERRY P.O THODUPUZHA TALUK, IDUKKI DISTRICT, PIN685581 REPRESENTED BY POWER OF ATTORNEY HOLDER P.A.UTHUPPU AGED70EARS, S/O.IYPPE, PADATHIL HOUSE, NEYYASSERRY P.O THODUPUZHA TALUK, IDUKKI DISTRICT, PIN685581.

13. TOMI, AGED ABOUT44YEARS, S/O.UTHUPPU, PADAATHIL HOUSE, NEYYASSERRY P.O THODUPUZHA TALUK, IDUKKI DISTRICT, PIN685581 REPRESENTED BY POWER OF ATTORNEY HOLDER P.A.UTHUPPU AGED70EARS,S/O.IYPPE, PADATHIL HOUSE, NEYYASSERRY P.O THODUPUZHA TALUK, IDUKKI DISTRICT, PIN685581. THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON2502-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: OP(C).No. 580 of 2014 (O)

----- APPENDIX PETITIONER(S)' EXHIBITS
----- EXHIBIT P1. ` COPY OF PLAINT IN OS NO.59 OF2013 EXHIBIT P2. COPY OF THE WRITTEN STATEMENT IN OS NO.59 OF2013 EXHIBIT P3. COPY OF THE PETITION IA NO.227 OF2014 EXHIBIT P4. COPY OF

ORDER

DATED142.14 IN IA NO.227 OF 2014 IN OS NO.59 OF2013 RESPONDENT(S)' EXHIBITS ----- NIL TRUE COPY P.A TO JUDGE SMM V.CHITAMBARESH,J.

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Dated this the 25th day of February, 2014

JUDGMENT

Whether the transaction between the parties is a lease or a license depends upon the interpretation of the documents and the oral evidence adduced. The same

cannot be decided as a preliminary issue under Order XIV Rule 2 (2) CPC as suggested by the petitioner /third defendant. Such an issue could very well be framed in the suit and answered along with other issues.

2. I do not find any error of jurisdiction in the order impugned warranting interference. The Original petition fails and is dismissed. V.CHITAMBARESH
JUDGE smm

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