

Chandramathi and Others Vs. A.Abraham and Another

Chandramathi and Others Vs. A.Abraham and Another

SooperKanoon Citation : sooperkanoon.com/1163682

Court : Kerala

Decided On : Aug-28-2014

Judge : Honourable Mr.Justice T.R.Ramachandran Nair

Appellant : Chandramathi and Others

Respondent : A.Abraham and Another

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR & THE HONOURABLE SMT. JUSTICE P.V.ASHA THURSDAY, THE 28^H DAY OF AUGUST 2014 6TH BHADRA, 1936 RFA.No. 64 of 2009 () ----- AGAINST THE

JUDGMENT

IN OS282007 of SUB COURT, OTTAPPALAM DATED 27-08-2007 APPELLANTS/DEFENDANT NOS.2 TO4 ----- 1. CHANDRAMATHI, AGED 49 YEARS, W/O. CHANDRASEKHARAN KIZHAKKEL HOUSE VADAKKUMBHAGOM KARA, CHIRAKKADAVU VILLAGE PONKUNNAM P.O., KANJIRAPPALLY TALUK KOTTAYAM DISTRICT.

2. BRIJESH CHANDRASEKHARAN, AGED 26 YEARS, S/O. CHANDRASEKHARAN KIZHAKKEL, HOUSE VADAKKUMBHAGOM KARA, CHIRAKKADAVU VILLAGE PONKUNNAM P.O., KANJIRAPPALLY TALUK

KOTTAYAM DISTRICT.

3. PRADEEP CHANDRASEKHARAN, AGED 23 YEARS, S/O. CHANDRASEKHARAN, KIZHAKKEL HOUSE, VADAKKUMBHA GOM KARA, CHIRAKKADAVU VILLAGE, PONKUNNAM P.O. ., KANJIRAPPALLY TALUK, KOTTAYAM DIST. BY ADVS.SRI.R.SURENDRAN SRI.I.V.PRAMOD RESPONDENTS/PLAINTIFF & DEFENDANT NO.1: ----- 1. A. ABRAHAM , C.P. 11/84, KADUVINAL NCC ROAD, PEOORKADA P.O., THIRUVANANTHAPURAM REPRESENTED BY POWER OF ATTORNEY HOLDER, A.M. JOSEPH AGED 47 YEARS, ARACKAL HOUSE, ASOKAPURAM P.O. PALLIKUNNU, ALUVA, ERNAKULAM DIST.

2. CHANDRASEKHARAN, AGED ABOUT 53 YEARS, S/O. RAMAKRISHNAN NAIR, KIZHAKKEL HOUSE VADAKKUMBHAGOM KARA, CHIRAKKADAVU VILLAGE PONKUNNAM P.O., KANJIRAPPALLY TALUK KOTTAYAM DISTRICT. R3-R7 BY ADV. SRI.S.PRASANTH R3-R7 BY ADV. SRI.JAGADEESH LAKSHMAN R2 BY ADV. SRI.P.MARTIN JOSE THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD ON 28/08-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: T.R.RAMACHANDRAN NAIR & P.V.ASHA, JJ.

----- R.F.A.No.64 OF 2009-----
-- Dated this the 28th day of August, 2014

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by defendants 2 to 4 before the court below. They are aggrieved only by the declaration granted in the decretal portion that sale deed No.5309/2005 of S.R.O., Kanjirappally is not binding on the plaint schedule property or the plaintiff for the realisation of decree debt from the property.

2. We heard the learned counsel on both sides.

3. It is submitted by the learned counsel for the appellants that going by the decree, the plaintiff is allowed to realise ` 24,49,044/- along with interest @ 6% per annum from the date of suit till realisation and costs from the first defendant who was ex parte before the court below. He has already filed I.A.No.418/2014 to set aside the ex parte decree. It is submitted that the parties are trying for a settlement and for enabling the parties to pursue the same, that portion of the decree which alone is under challenge before this court namely the declaration granted may be set aside R.F.A.No.64/2009 2 and the entire matter may be sent back to the trial court. Learned counsel for the additional respondents 3 to 7 and the learned counsel for the second respondent have no objection to this course. Therefore, this appeal is allowed to that extent, namely the declaration granted by the decree and as quoted already, will stand set aside and the matter is sent back for consideration by the trial court. The parties will pursue their steps for settlement of the disputes by any mode. No costs. T.R.RAMACHANDRAN NAIR, JUDGE P.V.ASHA, JUDGE sv. R.F.A.No.64/2009 2

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com