

Joseph vs Nil

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Court : Kerala

Decided On : Mar-27-2025

Judge : Honourable Mr.Justice Basant Balaji

Appeal No. : OP(C)/711/2025

Appellant : Joseph

Respondent : NIL

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE BASANT BALAJI
THURSDAY, THE 27TH DAY OF MARCH 2025 / 6TH CHAITHRA, 1947
OP(C) NO. 711 OF 2025 OS NO.50 OF 2023 OF MUNSIF-
MAGISTRATE COURT, THAMARASSERY PETITIONER/PLAINTIFF:
JOSEPH AGED 56 YEARS S/O XAVIER, VADAKKETH HOUSE,
PULLURUMPARA P.O, THIRUVAMBADI, PULLURUMPARA,
KOZHIKODE, KERALA, PIN - BY ADV BIMALA BABY
RESPONDENT/NO DEFENDANTS: NIL X THIS OP (CIVIL) HAVING
COME UP FOR ADMISSION ON 27.03.2025, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING: -2-

JUDGMENT

(Dated this the 27th day of March, 2025) The original petition is filed for a direction to the Munsiff Court, Thamarassery, to dispose of Ext.P6, OS No.50/2023 at the earliest.

2. OS No.50/2023 has been filed to declare the civil death of one Mr.Thomas, who is the brother of the petitioner. The

said Thomas has been missing from 18.06.1986. Mr. Thomas has acquired the property in Thiruvambadi village by virtue of document No. 1545/1984 of Thiruvambadi Sub Registrar Office. Since, Mr. Thomas has a right over the properties, the legal heirs are facing obstructions for executing partition deed or registration of other

transactions in connection with the property. Thus, the petitioner approached the Munsiff Court by filing Ext.P6 suit. Alleging the pendency of the above suit, the petitioner approached this Court.

3. A report was called for, and a report dated

22.03.2025 is received from the Munsiff Court, Thamarassery, wherein it is stated that the suit was filed on 04.04.2023 and thereafter, the same was posted for hearing on maintainability of the -3-

suit. The plaintiff was heard in part and sought time for further hearing, and in the meantime, the plaintiff had filed an application to implead the State through the District Collector, and the same was allowed. Since the suit is for a declaration of civil death, the court intends to post the suit for a detailed hearing on the maintainability of the suit. The Munsiff requested three months time after completion of the pre-trial steps for disposing of the suit, if the same is found maintainable.

Taking into consideration the fact that the suit is filed for declaration of civil death of a person, who is missing from 1986 onwards, and considering the report, I direct the Munsiff Court, Thamarassery, to dispose of OS No.50/2023, within a period of three months after completion of the pre-trial steps.

The original petition is disposed of. Sd/- BASANT BALAJI JUDGE JS -4- APPENDIX OF OP(C) 711/2025 PETITIONER EXHIBITS Exhibit P1 A TRUE COPY OF THE PAPER PUBLICATION DATED ABOUT MISSING OF MR. THOMAS Exhibit P2 A TRUE COPY OF THE FAMILY MEMBERSHIP CERTIFICATE DATED 20/01/2016 ISSUED BY VILLAGE OFFICE THIRUVAMBADI Exhibit P3 . A TRUE COPY OF DOCUMENT NO. 1545/1984 OF THIRUVAMBADY S.R.O Exhibit P4 . A TRUE COPY OF THE COMPLAINT DATED POLICE STATION Exhibit P5 A TRUE COPY OF THE RECEIPT OF COMPLAINT DATED 03/08/2023 Exhibit P6 A TRUE COPY OF THE DEATH DECLARATION SUIT NUMBERED OS NO. 50/2023 FILED BEFORE HONBLE MUNSIFF COURT THAMARASSERY DATED Exhibit P7 A TRUE COPY OF THE IMPLEADING PETITION I.A NO. 2/2023 IN OS NO. 50/2023 BEFORE THE HONBLE MUNSIFF COURT, THAMARASSERY DATED Exhibit P8 A TRUE COPY OF AMENDMENT PETITION IA NO. MUNSIFF COURT, THAMARASSERY DATED Exhibit P9 A TRUE COPY OF THE REPRESENTATION DATED

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