

Gouri vs Samson

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SooperKanoon Citation : sooperkanoon.com/1356474

Court : Kerala

Decided On : Jun-20-2023

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : OP(C)/977/2023

Appellant : GOURI

Respondent : Samson

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN
TUESDAY, THE 20th DAY OF JUNE 2023 / 30TH JYAISHTA, 1945
OP(C) NO. 977 OF 2023 AGAINST THE JUDGMENT DATED
13.01.2023 IN OS 7997/2015 OF III

PETITIONERS/PLAINTIFFS: 1 GOURI, AGED 56 YEARS, D/o
KOCHUNNI, 2 GEETHA, AGED 54 YEARS, D/o KOCHUNNI, 3
KRISHNAN, AGED 50 YEARS, S/o KOCHUNNI, 4 MEERA(DIED),
AGED 47 YEARS, D/o KOCHUNNI, 5 SHIBU, AGED 41 YEARS, S/o
KOCHUNNI, 6 SHARMILA (DIED), AGED 24 YEARS, D/o GOPI,
THRISSUR DISTRICT,, PIN - 680001 7 SHABU, AGED 23 YEARS, S/o

GOPI, BY ADVS. K.R.PRATHISH P.K.SREEVALSAKRISHNAN OP(C)
No.977 of 2023 2 RESPONDENTS/DEFENDANTS:

1 SAMSON, AGED 45 YEARS, S/o FELIX, KURISHINKAL HOUSE,
ANCHERIKARA, OLLUR VILLAGE, THRISSUR TALUK, THRISSUR
DISTRICT, PIN - 680306 2 THE CITY UNION BANK LTD, THRISSUR
BRANCH REPRESENTED BY CHIEF MANAGER AND AUTHORISED
OFFICER, THRISSUR DISTRICT, PIN - 680001 THIS OP (CIVIL)
HAVING COME UP FOR ADMISSION ON 20.06.2023, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING: OP(C) No.977 of
2023 3

JUDGMENT

During the course of argument, the learned counsel for the petitioners sought permission to withdraw the original petition. Prima facie it appears that it is a misuse of process of this court and hence permission is not granted. An unwarranted suit was filed against the first defendant, who obtained a sale deed of immovable property from the father in the year 2008. It was withdrawn in the year 2015. Then again another suit was filed in the year 2015 challenging the due execution of the sale deed of the year 2008. Both the suits were instituted without answering the bar of limitation. The plaint was rejected by the trial court on yet another ground that it is intended to delay and defeat the SARFAESI proceedings. The trial court ought to have OP(C) No.977 of 2023 4 rejected the plaint on account of bar of limitation also and as such Ext.P9 order deserves no interference. The Original Petition will stand dismissed. Sd/- P.SOMARAJAN JUDGE DMR/- OP(C) No.977 of 2023 5 APPENDIX OF OP(C) 977/2023 PETITIONERS' EXHIBITS Exhibit P1 TRUE COPY OF THE AMENDED PLAINT IN O.S NO. 7997 OF 2015 FILED BEFORE THE III ADDITIONAL MUNSIF COURT, THRISSUR Exhibit P2 TRUE COPY OF THE IA NO.1552 OF 2017 IN O.S NO. 7997 OF 2015 FILED BEFORE THE III Exhibit P3 TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE 2ND RESPONDENT IN IA NO.1552 OF 2017 IN O.S NO. 7997 OF 2015 BEFORE THE III Exhibit P4 TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE 2ND RESPONDENT IN O.S NO.

7997 OF 2015 BEFORE THE III ADDITIONAL MUNSIFF COURT, THRISSUR
Exhibit P5 TRUE COPY OF THE ORDER DATED 20.02.2017 IN IA NO.1552 OF
2017 IN O.S NO. 7997 OF 2015 BY THE III ADDITIONAL MUNSIFF COURT,
THRISSUR Exhibit P6 TRUE COPY OF THE CMA NO.18 OF 2017 FILED BY
THE PETITIONERS BEFORE THE III ADDITIONAL DISTRICT COURT,
THRISSUR Exhibit P7 TRUE COPY OF THE JUDGMENT DATED 11.12.2018 IN
CMA NO.18 OF 2017 BY THE III ADDITIONAL DISTRICT COURT, THRISSUR
Exhibit P8 TRUE COPY OF THE JUDGEMENT DATED 21.02.219 IN OP(C)
NO.466 OF 2019 BY THE HON'BLE HIGH COURT OF KERALA OP(C) No.977 of
2023 6 Exhibit P9 TRUE COPY OF THE JUDGEMENT DATED 13.01.2023 IN OS
NO.7997 OF 2015 BY THE III ADDITIONAL MUNSIFF COURT, THRISSUR //
TRUE COPY // P.A. TO JUDGE

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