

Rosy, vs Mery,

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Court : Kerala

Decided On : Aug-04-2023

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : OP(C)/1517/2023

Appellant : ROSY,

Respondent : MERY,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 4TH DAY OF AUGUST 2023 / 13TH SRAVANA, 1945 OP(C) NO. 1517 OF 2023 AGAINST THE ORDER/JUDGMENTAS 118/2022 OF ADDITIONAL DISTRICT COURT, IRINJALAKUDA OS 404/1983 OF PRINCIPAL MUNSIFF COURT ,IRINJALAKUDA PETITIONERS/APPELLANTS/JUDGMENT DEBTORS 2 TO 5/ADDITIONAL RESPONDENTS 5,6,8 AND 9: 1 ROSY, AGED 48 YEARS THRISSUR DISTRICT-, PIN - 680 308. 2 MERY, AGED 44 YEARS THRISSUR DISTRICT-, PIN - 680 308. 3 ELSY, AGED 38 YEARS THRISSUR DISTRICT-, PIN - 680 308. 4 LISSY, AGED 41 YEARS THRISSUR DISTRICT-, PIN - 680308. BY ADVS.

K.M.MUHAMMED HUSSAIN MANUMON A.
RESPONDENTS/RESPONDENTS 1 TO 2 AND 4 TO 18/DECREE
HOLDERS AND

JUDGMENT DEBTOR NO.1/PETITIONERS 2,3 AND 5 TO 13 AND ADDITIONAL

PETITIONERS 14 TO 18 AND ADDITIONAL 3RD RESPONDENT:

1 MERY, AGED 58 YEARS W/O PULLAN ANTHONY AND D/O
PAYYAPILLY DEVASSY PALAPILLY DESOM, MELOOR VILLAGE.
MUKUNDAPURAM TALUK THRISSUR DISTRICT-, PIN - 680 304. 2
JOSE, AGED 56 YEARS S/O PAYYAPILLY DEVASSY KUTTICHIRA
VILLAGE, CHAIPANKUZHI DESOM MUKUNDAPURAM TALUK
THRISSUR DISTRICT-, PIN - 680 724. 3 JOHNY, AGED 48 YEARS S/O
PAYYAPILLY DEVASSY, POOTHANKUTTY DESOM, MUKKARNNUR
VILLAGE. ALUVA TALUK. ERNAKULAM DISTRICT-, PIN - 683 576. 4
ALPHONSA, AGED 50 YEARS D/O PAYYAPILLY DEVASSY
MUKKANNUR VILLAGE. POKKUNNU DESOM, ALUVA TALUK.
ERNAKULAM DISTRICT, PIN - 683 576. 5 PHILOMINA AGED 46
YEARS D/O PAYYAPILLY DEVASSY KUTTICHIRA VILLAGE,
CHAIPANKUZHI DESOM MUKUNDAPURAM TALUK THRISSUR
DISTRICT-, PIN - 680 724. 6 DEVASSY, AGED 87 YEARS S/O
PANADAN OUSEPH, PALISSERY DESOM, KARUKUTTY VILLAGE,
ALUVA TALUK, ERNAKULAM DISTRICT-, PIN - 683 576. 7 ANTHONY,
AGED 55 YEARS 8 POULOSE, AGED 47 YEARS 9 ALPHONSA, AGED
45 YEARS 10 SAVIOUR, AGED 45 YEARS 11 MERY, AGED 46 YEARS
D/O PANADAN DEVASSY MUKKANNUR VILLAGE, PILLY DESOM,
ALUVA TALUK ERNAKULAM DISTRICT-, PIN - 683 576.

12 OUSEPH AGED 75 YEARS S/O PADATHAN VEETIL VAREETH,
KORATTY VILLAGE, THIRUMUDIKUNNU DESOM, MUKUNDAPURAM
TALUK THRISSUR 13 VARGHESE, AGED 50 YEARS 14 SAJU AGED

49 YEARS 15 JOHNSON AGED 46 YEARS 16 GRACY AGED 44
YEARS 17 PRIYA THANKACHAN, AGED 42 YEARS W/O
VITHAYATHIL THANKACHAN, KIZHAKUMURI VILLAGE, KORATTY
DESOM, MUKUNDAPURAM TALUK THRISSUR DISTRICT-, PIN - 680
308 BY ADVS. V.M.KRISHNAKUMAR RENJITH THAMPAN
(SR.)(K/276/1990)

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 04.08.2023, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING: C.S. DIAS J.
----- O.P.(C). No. 1517 of 2023
----- Dated this the 4th day of August, 2023.

JUDGMENT

This Original Petition is filed to direct the court of Additional District Court, Irinjalakkuda to consider and dispose of Ext. P3 stay petition, I.A. No. 1 of 2022 in A.S. No. 118 of 2022, and Ext.P9 application expeditiously and until such time, to defer further proceedings in E.P. No. 690 of 2023 pending before the court of Principal Munsiff, Irinjalakkuda.

2. Pursuant to the order dated 26.07.2023 passed

by this Court, the learned Additional District and Sessions Judge, Irinjalakuda, by communication dated 01.08.2023, has informed this Court that the appeal and the I.A are pending consideration before that court. The respondents are yet to file counter statements and the appeal and the stay petition would be disposed of, as directed by this Court.

3. Heard Sri. K. Muhammed Hussain, the learned counsel for the petitioners and Sri. V. M Krishnakumar, the learned counsel for the respondents.

4. Sri. V.M. Krishnakumar, on instructions,

submitted that he/his counterpart proposes to enter appearance for and on behalf of the respondents before the court below. Hence, a direction may be issued to the court below to consider and dispose of A.S. No. 118 of 2022 immediately, since

the matter pertains to the final decree passed in a suit of the year 1983. I find the submission made by the learned counsel for the respondents justifiable and reasonable. Resultantly, in exercise of the powers conferred

under Article 227 of the Constitution of India, I order

the Original Petition as follows:

1. The Court of Additional District Judge,

Irinjalakuda is directed to consider and dispose of A.S. No. 118 of 2022, in accordance with law and as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a certified copy of the judgment, after affording both sides an opportunity of being heard.

2. Until such time orders are passed in A.S.

No. 118 of 2022, all further proceedings in E.P. No. 690 of 2023 pending before the court of Principal Munsiff, Irinjalakuda, shall stand deferred. This Original Petition is disposed of. sd/- C.S. DIAS, JUDGE. Rv APPENDIX OF OP(C) 1517/2023 PETITIONERS EXHIBITS: Exhibit P1 TRUE COPY OF THE FINAL JUDGEMENT DATED 31-03- 2022 I.A.NO.3150 OF 2011 IN O.S.NO.404/1983 ON THE FILES OF THE MUNSSIF COURT- IRINJALAKKUDA Exhibit P2 THE TRUE COPY OF A.S.NO.118 OF 2022 BEFORE THE COURT OF ADDITIONAL DISTRICT JUDGE- IRINJALAKKUDA FILED BY THE PETITIONERS DATED 03-08-2022 Exhibit P3 THE TRUE COPY OF THE I.A.NO.1 OF 2022 IN A.S.NO.118

OF 2022 BEFORE THE COURT OF ADDITIONAL DISTRICT JUDGE- IRINJALAKKUDA FILED BY THE PETITIONERS DATED 03-08-2022 TO STAY THE OPERATION OF

EXHIBIT P1 FINAL JUDGEMENT

Exhibit P4 THE TRUE COPY OF E.P.NO.690 OF 2023 IN I.A.NO.3150 OF 2011 IN O.S.NO.404/1983 ON THE FILES OF THE MUNSSIF COURT- IRINJALAKKUDA DATED 11-04-2023 Exhibit P5 THE TRUE COPY OF

OBJECTION FILED BY THE PETITIONERS DATED 14-11-2022 Exhibit P6 THE TRUE COPY OF THE PRELIMINARY DECREE IN O.S.NO.404/1983 ON THE FILES OF THE MUNSSIF COURT- IRINJALAKKUDA DATED 20-12-1988 Exhibit P7 THE TRUE COPY OF THE JUDGEMENT IN OP.(C).NO 1369 OF 2023 DATED 10-07-2023 Exhibit P8 THE TRUE COPY OF THE ORDER IN E.P.NO.690 OF 2023

IN I.A.NO.3150 OF 2011 IN O.S.NO.404/1983 ON THE FILES OF THE MUNSSIF COURT- IRINJALAKKUDA DATED 12-07-2023. Exhibit P9 THE TRUE COPY OF THE I.A.NO.12 OF 2023 IN A.S.NO.118 OF 2022 BEFORE THE COURT OF ADDITIONAL DISTRICT JUDGE- IRINJALAKKUDA FILED BY THE PETITIONERS DATED 22-07-2023. Exhibit P10 THE TRUE COPY OF THE PROCEEDINGS DATED 24-07-

2023 IN E.P.NO.690 OF 2023 IN I.A.NO.3150 OF 2011 IN O.S.NO.404/1983 ON THE FILES OF THE MUNSSIF COURT- IRINJALAKKUDA OBTAINED FROM THE WEBSITE OF E- COURT SERVICE. RESPONDENTS EXHIBITS: NIL True Copy PS To Judge. Rv

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