

Kannan Mooppan, vs Michael,

Kannan Mooppan, vs Michael,

SooperKanoon Citation : sooperkanoon.com/1439848

Court : Kerala

Decided On : Jan-05-2022

Judge : Honourable Mr. Justice a. Badharudeen

Appeal No. : OP(C)/9/2022

Appellant : Kannan Mooppan,

Respondent : Michael,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A. BADHARUDEEN
WEDNESDAY, THE 5TH DAY OF JANUARY 2022 / 15TH POUSHA,
OP(C) NO. 9 OF 2022 OS 36/2021 OF MUNSIF-MAGISTRATE
COURT, MANNARKAD PETITIONER/SUPPL.7TH DEFENDANT :
KANNAN MOOPPAN, AGED 50 YEARS, S/O. RENGAN, MALE OORU,
KAKKUPPADI, AGALI AMSOM AND POST, ATTAPADI TRIBAL TALUK,
PALAKKAD DISTRICT-678581. BY ADV R.SREEHARI
RESPONDENTS/PLAINTIFF, DEFENDANRS 1 TO 6 AND SUPPL.8TH
DEFENDANT :

1 MICHAEL, AGED 48 YEARS, S/O. SEBASTIAN, THEKKEKUTTU VEETTIL, KALLAMALA AMSOM DESOM AND POST, 2 THOMAS, AGED 55 YEARS, S/O. JOSEPH, CHITTALATH VEETTIL, KAKKUPPADI, KALLAMALA AMSOM DESOM AND POST, 3 BABURAJ, AGED 55 YEARS, S/O. SUKUMARAN, KANNILETH VEETTIL, KAKKUPPADI, KALLAMALA AMSOM DESOM AND POST, O.P.(C)No.9 of 2022 ..2..

4 DEVARAJ, AGED 55 YEARS S/O. SUKUMARAN, KANNILETH VEETTIL, KAKKUPPADI, KALLAMALA AMSOM DESOM AND POST, 5 SUJITH, AGED 27 YEARS, S/O. BABURAJ, KANNILETH VEETTIL, KAKKUPPADI, KALLAMALA AMSOM DESOM AND POST, ATTAPPADI, MANNARKKAD TALUK, PIN-678582. 6 SHAMEER, AGED 35 YEARS, S/O. SAINABA, NARAYAKKADA VEETTIL, KAKKUPPADI, KALLAMALA AMSOM DESOM AND POST, ATTAPPADI, MANNARKKAD TALUK, PIN-678582. 7 MUHAMMED, AGED 45 YEARS, EZHUPOTHIYIL VEETTIL, KAKKUPPADI, KALLAMALA AMSOM DESOM AND POST, 8 AGALI GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY, AGALI POST, MANNARKKAD TALUK, PIN-678581.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 05.01.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
O.P.(C)No.9 of 2022 ..3..

A.BADHARUDEEN, J.

----- O.P.(C)No.9 of 2022
----- Dated this the 5th day of
January, 2022

JUDGMENT

Supplemental seventh defendant, who was impleaded in O.S.No.36 of 2021, by allowing I.A.No.527 of 2021, is the original petitioner herein.

2. When the case is taken for hearing on

admission, it is submitted by the learned counsel for the petitioner that the learned Munsiff not considered the contentions raised by the petitioner in the objection in detail and without a speaking order, impleadment was allowed. He submitted further that the consequential amendment petition filed as I.A.No.528 of 2021 also was allowed by a single lined order. O.P.(C)No.9 of 2022 ..4..

3. On perusal of the order, it could be seen that

the order in I.A.No.527 of 2021 is not an exhaustive one. However, it has been mentioned therein that the seventh defendant/the petitioner herein had raised complaints with respect to the plaint schedule property and constructions therein at various forums and therefore, he is a necessary party to adjudicate the dispute. Though the order, in so many words, not discussed about the objection filed by the petitioner, the necessity for impleading the seventh defendant in the party array is, precisely discussed in the

order.

4. Going by the materials produced along with

the original petition also, it could be gathered that the petitioner, who is impeaded as seventh defendant in this case, is aggrieved in the matter of claim raised by the plaintiff in relation to the entire extent of property, where, according to the seventh defendant, construction was carried out by encroaching portion of the public road, which O.P.(C)No.9 of 2022 ..5.. was in existence. Therefore, I have no hesitation to hold that though the impugned order in so many words narrates the objection in detail, the impleadment ordered by the court below after a definite finding that the petitioner is a necessary party in the suit.

5. In view of the matter, I do not find any

perversity or arbitrariness to interfere in the impugned order, in a petition filed under Article 227 of the Constitution of India. Therefore, this original petition lacks merit and the same deserves dismissal. Accordingly, this original petition is

dismissed. Sd/- A.BADHARUDEEN, JUDGE rkj O.P.(C)No.9 of 2022 ..6..
APPENDIX OF OP(C) 9/2022 PETITIONER EXHIBITS Exhibit P1 PHOTOCOPY
OF AFFIDAVIT AND APPLICATION IN IA 527/2021 IN OS 36/2021 OF MUNSIF
MAGISTRATE COURT, MANNARKKAD. Exhibit P2 PHOTOCOPY OF THE
OBJECTION FILED BY THE PETITIONER IN IA 527/2021 IN OS Exhibit P3
PHOTOCOPY OF THE PETITION FILED BY THE PETITIONER AND OTHERS
BEFORE THE 8TH RESPONDENT. Exhibit P4 PHOTOCOPY OF THE PETITION
FILED BY THE PETITIONER BEFORE THE NODAL OFFICER. Exhibit P5
PHOTOCOPY OF THE NOTICE DATED RESPONDENT. Exhibit P6
PHOTOCOPY OF THE LETTER DATED Exhibit P7 PHOTOCOPY OF THE
ORDER DATED SELF GOVERNMENT DEPARTMENT,
THIRUVANANTHAPURAM. Exhibit P8 PHOTOCOPY OF OBJECTION FILED BY
THE RESPONDENTS 2, 3, 5 AND 6 IN OS NO.36/2021 IN IA 527/2021. Exhibit
P9 CERTIFIED COPY OF THE ORDER IN IA MAGISTRATE COURT,
MANNARKKAD DATED Exhibit P10 CERTIFIED COPY OF THE ORDER IN IA
MAGISTRATE COURT, MANNARKKAD DATED O.P.(C)No.9 of 2022 ..7..
Exhibit P11 PHOTOCOPY OF AMENDED PLAINT FILED IN OS 36/2021 OF MUNSIF-
MAGISTRATE COURT, MANNARKKAR.

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