

IN THE COURT OF THE SUB JUDGE, MUVATTUPUZHA

Present:- Sri. Aravind B. Edayodi, Sub Judge

Thursday, the 22nd day of September 2022/31st Bhadrapada 1944**I.A. No. 7/2022 in O.S. No. 82/2020****Petitioners/Plaintiffs :**

1. Shibu George, aged 52, S.o. N C George, Nadukudiyil, Kuroor Kara, Kothamangalam now residing at Ayyakkadu Kara, Thrikkariyoor village, Kothamangalam (1st Plaintiff).
2. Shency Anil, W.o. Anil, aged 55, Anikkattu House, Marady village. (2nd Plaintiff)
3. Shiji George aged 54, W.o. Late. Proff. P J George, East Kadathy, Velloorkunnam, Muvattupuzha (3rd Plaintiff).
4. Shibi Saju, W.o. Saju, chakkalackal House, east Kadathy, Velloorkunnam, Muvattupuzha.

By Advs. M/s. Pradeep R & Jijo Joseph

Respondents/Defendants:

1. Shobu George, S.o. N C George, Nadukudiyil, Kuroor Kara, Kothamangalam (1st defendant).
2. Kunjamma George, W.o. Late N C George, Nadukudiyil, Kuroor Kara, Kothamangalam (2nd Defendant).
3. Eldo Shobu, Minor, S.o. Shobu, Nadukudiyil, Kuroor Kara, Kothamangalam (3rd Defendant).
4. Anie Shobu, W.o. Shobu, Nadukudiyil, Kuroor Kara, Kothamangalam (4th Defendant).
5. C I Varghese, Chundattu House, Venduvazhi Post, now near Kala Auditorium, Kothamangalam (5th Defendant).

R1to R4 By Advs. M/s. P M Rafeek & P M Riyas

R5 By Advs. M/s. Sherman A George & Ruby Anna Mathew

This petition is filed under Section 151 of the CPC to direct the defendants 1 to 4 to produce documents.

The petition coming on for final hearing on 15.09.2022 in the presence of above counsel and the court on this day passed the following order:-

ORDER

This is an application filed by plaintiffs under Section 151 read with Order XI Rule 14 of Code of Civil Procedure, directing the respondents/defendants 1 to 4, to produce settlement deed No.4163/17 dated 10.11.2017, of SRO Kothamangalam, Will No.122/III/2018 dated 28.05.2018, of SRO Kothamangalam and settlement deed No.2482/2018 dated 02.07.2018, of SRO Kothamangalam, relied by respondents/defendants.

2. Respondents/defendants 1 to 4, filed objection stating that the documents sought to produce are the title deeds of defendants and it is the prerogative of the defendants to produce or not to produce the documents relied by them.

3. Others respondents not filed objection.

4. Heard both sides.

5. Now the points arose for consideration are:

1. Whether petitioners/plaintiffs are entitled to an order directing the defendants 1 to 4 to produce the documents as that sought for?
2. What is the order as to cost?

6. Point No.1- In this case, the relied title deeds of defendants 1 to 4 are challenged and issues framed regarding genuineness of above documents. Hence for the just decision of the case, defendants 1 to 4 are directed to produce the challenged documents or file affidavit stating reason for non production and in case of default, adverse presumption shall be taken against defendants who did not produce the documents without any sufficient justification, at the relevant time, while appreciating the evidence in the trial of issues involved.

7. Point No.2:- Considering the facts and circumstance of the case, each party shall bear their respective costs.

In the result, petition is partly allowed as follows:

1) Defendants 1 to 4 are directed to produce settlement deed No.4163/17 dated 10.11.2017, of SRO Kothamangalam, Will No.122/III/2018 dated 28.05.2018, of SRO Kothamangalam and settlement deed No.2482/2018 dated 02.07.2018, of SRO Kothamangalam, or file affidavit stating reason for non production of documents and in case of default, adverse presumption shall be taken against defendants who did not produce the documents, without any

sufficient justification, at the relevant time, while appreciating the evidence in the trial of issues involved.

2) Each party shall bear their respective costs.

Dictated to the Confidential Assistant, typed by her directly into computer, corrected and pronounced by me in the Open Court, this the 22nd day of September 2022.

Sd/-
Aravind B. Edayodi
Sub Judge

Appendix : Nil

Id/-
Sub Judge

//True Copy//

(By Order)

Sheristadar

Copied by : stn/-
Compd by: svb/-

Copy of Order in
I.A. No. 7/2022
in O.S. 82/2020
Dated : 22.09.2022