

**IN THE COURT OF THE SUB JUDGE, MUVATTUPUZHA**

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

Thursday, the 22<sup>nd</sup> day of September 2022/31<sup>st</sup> Bhadrapada 1944**I.A. No. 8/2022 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 (1<sup>st</sup> Plaintiff).
2. Shency Anil, W.o. Anil, aged 55, Anikkattu House, Marady village. (2<sup>nd</sup> Plaintiff)
3. Shiji George aged 54, W.o. Late. Proff. P J George, East Kadathy, Velloorkunnam, Muvattupuzha (3<sup>rd</sup> Plaintiff).
4. Shibi Saju, W.o. Saju, chakkalackal House, east Kadathy, Velloorkunnam, Muvattupuzha.

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

**Respondents/Defendants:**

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

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

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

This petition is filed under Section 151 read with Order XI, Rule 14 of the CPC to direct the 5<sup>th</sup> defendant to produce original sale agreement dated 21.10.2017.

The petitions 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 Order XI Rule 14 read with Section 151 of Code of Civil Procedure, directing the 5<sup>th</sup> defendant to produce original sale agreement dated 21.10.2017, relied by 5<sup>th</sup> defendant.

2. Respondents/defendants 1 to 4 filed objection stating that the document sought to produce is an unnecessary document, for deciding the issues.

3. Others respondents not filed objection.

4. Heard both sides.

5. Now the point that arose for consideration are:

1. Whether petitioners/plaintiffs are entitled to an order directing the 5<sup>th</sup> defendant to produce the document as that sought for?

2. What is the order as to cost?

6. Point No.1:- In this case, the agreement for sale relied by 5<sup>th</sup> defendant is challenged. No objection filed by the 5<sup>th</sup> defendant. To decide the matter on merit, 5<sup>th</sup> defendant is directed to produce the original agreement for sale or file affidavit stating reason for non production and in case of default, adverse presumption shall be taken against the defendant, who did not produce the document 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) The 5<sup>th</sup> defendant is directed to produce the original agreement for sale dated 21.10.2017 or file affidavit stating the reason for it's non production, and in case of default, an adverse presumption shall be taken against the defendant who did not produce the document, without any sufficient justification, at the relevant time, while appreciating the evidence in the trial of the 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 22<sup>nd</sup> 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. 8/2022  
in O.S. 82/2020  
Dated : 22.09.2022