

IN THE COURT OF THE SUBORDINATE JUDGE, IRINJALAKUDA

Present:- Anju Meera Birla, Additional Sub Judge

Wednesday the 6th day of April, 2022/ 16th Chaithram 1943 S.E

I.A.7/2020 in OS 476/2010

Petitioners/ 1st, 2nd and 6th Defendants :

1. Selvin, agedn 63 years, S/o Olaprath Maniyam Makkal Jose, Pappinivattom Village Amsam Desom, Kodungallur Taluk.
2. Vincy, aged 56 years, W/o Olaprath Maniyam Makkal Selvin, Pappinivattom Village Amsam Desom, Kodungallur Taluk
3. Nidhi, aged 34 years, D/o Olaprath Maniyam Makkal Selvin, Pappinivattom Village Amsam Desom, Kodungallur Taluk

By Adv: V.G. Subhash Chandra Babu

Respondents/ Plaintiff, 3rd, 4th, 5th, 7th, 9th, 10th and 11th Defendants:

1. Peringottukkara Namboodiri Yogakshema Sabha rep by present Secretary, Purushothamman Namboodiripad, aged 72 years, S/o Payakkatt Manakkal Janardhanan, Kizhuppullikkara Village, Thrissur.
2. Thankamma, aged 72 years, W/o Olaprath Maniyammakkal Jose, Pappinivattom Village desom, Kodungallur Taluk.
3. Moidheen, aged 64 years, S/o Puthiyaveettil Hassan, Cherpu Village Desom, Thrissur Taluk.
4. Babu, aged 63 years, S/o Parakkal Devassykutty, Vallachira Village Desom, Thrissur Taluk.
5. Sidhique, aged 54 years, S/o Karappamveettil Malikunji, Pappinivattom Village Desom, Kodungallur Taluk.
6. Raveendranathan, aged 57 years, S/o Tharayil Velayudhan, Pappinivattom Village Desom, Kodungallur Taluk.
7. Seeniya, aged 38 years, D/o Olaprath Maniyammakkan Jose, Pappinivattom Village Desom, Kodungallur Taluk.
8. Solly, aged 34 years, D/o Olaprath Maniyammakkan Jose, Pappinivattom Village Desom, Kodungallur Taluk.

9. Salam, agd 42 years, S/o Thuruvaanpeedikayil Muhammad, Pathazhakkad Desom, Sree Narayanapuram Village, Kodungallur Taluk.

By Adv : Rajesh Thampan

This petition coming on this day for hearing before me the court on the same day passed the following:

ORDER

Petition filed under Order XI Rule 14 of CPC.

2. Petition averments in short are as follows:- The petitioner is the 1st defendant who has filed petition on behalf of the 2nd and 6th defendants as well. No consideration has been received to the petitioner under document No.4266/1999 of Mathilakam S.R.O. The petitioner has required the accounts of the plaintiff to be produced which would show that the said document has not been acted upon. This is required for just disposal of the matter whereby the respondent is to be directed to produce documents showing giving of consideration to the 1st defendant by the plaintiff, (2) to produce accounts of the plaintiff, and (3) document to show that profits had been taken from the plaint schedule property by the plaintiff, resolution taken by plaintiff for purchase of plaint schedule property.

3. Objection has been filed contending as follows:- The petition is not maintainable on facts or on law. The petitioners have sold the property as per the said sale deed. They were not entitled to cancel the said sale deed on their own which is illegal. Thus, sale has not been acted upon. The claim made after 21 years of such sale when no balance purchase price has been claimed during this time is to be dismissed. No documents are available as regards giving of the consideration and they are not required for the same. Hence, petition is sought to be dismissed.

4. The following points arise for consideration:-

1) Whether the documents are required for just disposal of the matter?

2) Order?

5. Heard both sides.

6. **Point No.1:-** Petition averments and counter contentions have already been referred to. The very point is that the document concerned is without consideration and has not been acted upon whereby restoration of possession on the basis of title is claimed finding that the cancellation was unilateral and was not lawful as per rules. In these circumstances, the documents sought as regards the passing of consideration and there being any other document as regards sale consideration having been received by the 1st defendant assumes significance. In these circumstances, I am of the opinion that the counter raised cannot be maintained. Hence, this point is found in favour of the petitioner.

7. **Point No.2:-** In the light of the findings above, this point is found in favour of the petitioner.

In the result, petition is allowed. Respondent shall produce account details and all the other documents sought if the same is available.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in the open court on this the 6th day of April, 2022.

Anju Meera Birla
Additional Sub Judge.

APPENDIX:NIL

Additional Sub Judge.

Copied :
compared :