

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946

OP(C) NO. 2851 OF 2023

OS NO.214 OF 2022 OF II ADDITIONAL SUB COURT, ERNAKULAM
PETITIONER/DEFENDANTS 1 AND 2 IN OS NO.214/2022 OF HTE 2ND
ADDITIONAL SUB COURT, ERNAKUULAM:

- 1 P ELIZABATH JOHN, AGED 70 YEARS
D/O EAPEN JOHN, RESIDING AT 11/25, PIPELINE
JUNCTION, PUKKATTUPADY ROAD, THRIKKAKARA,
VAZHAKKALA VILLAGE, KANAYANNUR TALUK, ERNAKULAM,
NOW RESIDING AT FLAT NO. 6A, GOLDEN RESIDENCY
APARTMENTS, S.A ROAD, M.G ROAD ERNAKULAM, PIN -
682016
- 2 MARY JOHN, AGED 64 YEARS
D/O EAPEN JOHN 11/25, PIPELINE JN, PUKKATTUPADY
ROAD, THRIKKAKKARA P.O., KAKKANAD DESOM,
VAZHAKKALA VILLAGE, KANAYANNUR TALUK, ERNAKULAM
DISTRICT AND NOW RESIDING AT TC 5/2380 (20), FLAT
NO. 3B. C, PALACE COURT APARTMENTS, KOWDIYAR
DESOM, KOWDIYAR P.O. KOWDIYAR VILLAGE, TRIVANDRUM
TALUK, TRIVANDRUM DISTRICT, REP BY HER POWER OF
ATTORNEY HOLDER AND SISTER P ELIZABETH JOHN , AGED
67 YEARS, D/O EAPEN JOHN, 11/25, PIPELINE JN,
PUKKATTUPADY ROAD, THRIKKAKKARA P.O., NOW RESIDING
AT FLAT NO. 6A, GOLDEN RESIDENCY APARTMENTS, S.A
ROAD, M.G ROAD ERNAKULAM, PIN - 682016

BY ADV PRAVEEN K. JOY

RESPONDENTS/PLAINTIFF AND DEFENDANT NO.3 IN OS 214/2022 OF
THE 2ND ADDITIONAL SUB COURT, ERNAKULAM:

O.P.(C).No.2851/2023

-:2:-

- 1 VARUN HILBERT, AGED 39 YEARS
S/O HILBERT RAJ, BUSINESS, SARANG, PUTHUKUNNU,
POWDIKONAM P.O., POWDIKONAM DESOM, ULIYAZHATHURA
VILLAGE, TRIVANDRUM TALUK, TRIVANDRUM DISTRICT,
PIN - 695011

- 2 P. STEPHEN JOHN, AGED 77 YEARS
S/O EAPEN JOHN 11/25, PIPELINE JN, PUKKATTUPADY
ROAD, THRIKKAKKARA P.O., KAKKANAD DESOM,
VAZHAKKALA VILLAGE, KANAYANNUR TALUK, ERNAKULAM
DISTRICT AND NOW RESIDING AT FLAT NO.A, BLUE MOON
SAPHIRE, MARY MATHA CHURCH ROAD, GANDHI NAGAR,
KALOOR, ERNAKULAM, PIN - 682017

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
09.04.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J U D G M E N T

This original petition has been filed for expeditious disposal of O.S.No.214/2022 and I.A.No.3/2022 in O.S.No.214/2022.

2. Since the suit is of the year 2022, I am not inclined to grant the relief sought for to dispose of O.S.No.214/2022. However, Ext.P9 produced would show that an order has been passed under Order XXXVIII Rule 5 of the Code of Civil Procedure directing the defendants to furnish security for the suit claim or to show cause why the security should not be furnished. It is submitted that the petitioners have already filed Ext.P4 counter affidavit to I.A.No.3/2022.

In these circumstances, the learned Munsiff is directed to consider and dispose of I.A.No.3/2022 within one month from the date of re-opening of the court after summer vacation, after hearing both sides. The original petition is disposed of.

sd/-

DR. KAUSER EDAPPAGATH

JUDGE

kp

APPENDIX OF OP(C) 2851/2023

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE PLAINT IN OS NO. 214/2022 FILED BY THE RESPONDENT NO.1 BEFORE THE 2ND ADDITIONAL SUB COURT ERNAKULAM DATED 12.10.2022
Exhibit P2	TRUE PHOTOCOPY OF THE WRITTEN STATEMENT IN OS 214/2022 DATED 29.11.2022 BEFORE THE 2ND ADDITIONAL SUB COURT ERNAKULAM
Exhibit P3	TRUE COPY OF THE ATTACHMENT PETITION, IA NO. 3/2022 IN OS NO. 214/2022
Exhibit P4	TRUE COPY OF THE COUNTER IN IA NO. 3/2022 IN OS NO. 214/2022
Exhibit P5	TRUE COPY OF THE PLAINT IN OS 925/2021 , MUNSIF COURT, ERNAKULAM
Exhibit P6	TRUE PHOTOCOPY OF WRITTEN STATEMENT FILED BY THE PETITIONERS IN OS NO. 925/2021 , MUNSIF COURT, ERNAKULAM
Exhibit P7	TRUE COPY OF THE INJUNCTION ORDER DATED 2.12.2021 IN IA.NO.03/2021 IN OS NO. 963/2021 , MUNSIF COURT, ERNAKULAM
Exhibit P8	TRUE COPY OF THE E COURTS PROCEEDINGS DATED 1.12.2023 OF OS NO. 928/2021, MUNSIF COURT, ERNAKULAM
Exhibit P9	TRUE COPY OF THE SHOW CAUSE NOTICE ISSUED BY THE HONOURABLE SUB COURT, ERNAKULAM IN IA NO.3/2022 IN OS NO.214/2022 DATED 14.11.2022
Exhibit P10	TRUE COPY OF THE TAX RECEIPT DATED 14.11.2023 OF KAKKANAD VILLAGE

O.P.(C) .No.2851/2023

-:5:-

Exhibit P11

**TRUE COPY OF THE RELEVANT PAGE OF
ENCUMBRANCE CERTIFICATE DATED 03.11.2023
EDAPPALLY SRO**