

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR**

**THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928**

**CRP.No. 1992 of 2001(G)**

**AGAINST THE ORDER DT.14.3.2001 IN OP.3/2000 of DISTRICT COURT, KASARAGOD**

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**REVN. PETITIONER: (PETITIONER)**

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**MUTHANNA RAI, S/O.MANJANNA RAI,  
RESIDING AT PALAYA HOUSE,  
PERAJE VILLAGE, NERLAKATTA,  
BANTWAL TALUK, D.K., KARNATAKA STATE.**

**BY ADV. SRI.D.KRISHNA PRASAD  
SRI.D.NARENDRANATH  
SRI.JOJI VARGHESE  
SRI.M.HARISHARMA  
SRI.T.P.ELDHOSE**

**RESPONDENTS: (RESPONDENTS 1 TO 5, 7 TO 12 AND THE LEGAL  
REPRESENTATIVES OF DECEASED 6TH RESPONDENT)**

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- 1. DEENANATHA RAI, S/O. LATE MANJANNA RAID,  
RESIDING AT TELEKANA HOUSE,  
ICHALANGODU VILLAGE AND POST,  
KASARAGOD TALUK.**
- 2. SHANKARI, W/O. T.SEETHAMA RAI,  
RESIDING AT TALEKANA HOUSE, ICHALANGODU  
VILLAGE AND POST KASARAGOD TALUK.**
- 3. ANANTHARAMA RAI, PROPRIETOR, M.S.RAI AND RAI, UPPER  
BENDOOD ROAD, MANGALORE – 2, D.K.**
- 4. JAYALAKSHMI, W/O. LATE SHIVARAMA RAI, RESIDING  
AT KANOOR, VIA, GONIKOPPA COORG DISTRICT, KARNATAKA  
STATE.**
- 5. DEVI PRASAD RAI, S/O.LATE SHIVARAMA RAI,  
CLERK, VIJAYA BANK, POST KANOOR, VIA.GONIKOPPA  
COORG DISTRICT, KARNATAKA DISTRICT.**
- 6. SACHINDANANDA RAI, S/O.SEETHARAMA RAI, RESIDING AT  
TELEKANA HOUSE, ICHALANGOD VILLAGE.  
KASARAGOD TALUK, POST ICHALANGOD.**

**BY ADV. SRI.S.V.BALAKRISHNA IYER  
SRI.K.JAYAKUMAR**

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD  
ON 30/11/2006, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**M.SASIDHARAN NAMBIAR, J.**

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**C.R.P.NO.1992 OF 2001 (G)**

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Dated this the 30<sup>th</sup> day of November, 2006.

**ORDER**

Petitioner is challenging the order of District Judge, Kasaragod in O.P.3/00, dismissing the transfer sought for. Petitioner herein filed the transfer application to transfer O.S.53/98 on the file of Munsiff Court, Kasaragod to Sub Court, Kasaragod. O.S.454/98 is a suit for partition, filed by the petitioner and pending before sub Court, Kasaragod. According to the petitioner suit property in O.S.53/98 which is pending before Munsiff Court, Kasaragod is one of the items of the property sought to be partitioned in O.S.454/98 and therefore both the suits are to be tried by the same court. Learned District Judge dismissed the petition for the sole reason that petitioner is not a party in O.S.53/98. Learned counsel appearing for petitioner pointed out that subsequently petitioner was impleaded as additional defendant in O.S.53/98 as per order in I.A.257/01

2. It is clear that subject matter in O.S.53/98 is one of the properties sought to be partitioned in O.S.454/98. Defendants in O.S.53/98 are also defendants in O.S.454/98. So also plaintiff in O.S. 53/98 is one of the plaintiffs in O.S.454/98. In such circumstances the order of the District Judge in O.P.3/00 is set aside. O.S.53/98 on the file of Munsiff Court, Kasaragod is withdrawn and transferred to Sub Court, Kasaragod for disposal. Learned Sub Judge may decide whether the suits are to be tried jointly or not.

**M.SASIDHARAN NAMBIAR,  
JUDGE.**

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