

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

AS.No. 286 of 1995 (C)

O.S.NO.46/1990 OF SUB COURT, OTTAPPALAM

**APPELLANT(S)(DEFENDANTS 2 TO 6, 8 AND 11 TO 20 AND LEGAL
REPRESENTATIVES OF DECEASED 21ST DEFENDANT :**

1. AMINA
2. BEEVI
3. RUKKIYA
4. MOIDEENKUTTY
5. KADEEJA
6. MUHAMMED RAHIMAN
7. ASIYA
8. HUSSAIN ABDUL NAZAR
9. SAFIYA
10. VAHIDA RAHIMABI
11. NAZEEMA (MINOR) AGED 17 YEARS
12. ABDUL HAMEED (MINOR) AGED 15 YEARS
13. SULEENA (MINOR) AGED 13 YEARS.
14. PATHUMMA (MINOR) AGED 14 YEARS
15. PHASMINA (MINOR) AGED 12 YEARS
16. ABDULKHADER (MINOR) AGED 8 YEARS
17. AALIPPU
18. K.MOHAMMEDKUTTY
- * 19. PATHUMA (DIED)

20. KUNUTHUMMA

MINOR APPELLANTS 11 TO 16 REPRESENTED BY THEIR GUARDIAN 4TH APPELLANT MOIDEENKUTTY. APPELLANTS 1 AND 2 ARE THE WIDOWS AND APPELLANTS 3 TO 16 ARE THE CHILDREN OF DECEASED USSAN ALIAS VAPPU. APPELLANTS 17 TO 20 ARE THE CHILDREN OF DECEASED 21ST DEFENDANT KADEEJA, WHO DIED AFTER THE DATE OF THE DECREE PASSED BY THE COURT BELOW. APPELLANTS ARE RESIDING AT EZHUVANATHALA AMSOM, PATTISSERI DESOM, OTTAPPALAM TALUK.

BY ADV. SMT.O.K.SANTHA

RESPONDENT(S) (PLAINTIF AND DEFENDANTS 7, 9, 10 AND 22 TO 24) :

1. KARTHIAYANI ALIAS KUNHIMALU AMMA,
D/O.OORANDATH KALATHIL DEVAKI AMMA,
MARAYAMANGALAM AMSOM AND DESOM,
OTTAPPALAM TALUK.
2. MUHAMMED ISMAIL,
S/O.USSAN ALIAS VAPPU, EZHUVANTHALA AMSOM,
PATTISSERI DESOM, OTTAPPALAM TALUK.
3. MUHAMMADALI,
EZHUVANTHALA AMSOM, PATTISSERI DESOM,
OTTAPPALAM TALUK.
4. MUHAMMAD HANEEFA,
EZHUVANTHALA AMSOM, PATTISSERI DESOM,
OTTAPPALAM TALUK.
5. THE SECRETARY,
VALLAPUZHA SERVICE CO-OPERATIVE BANK LIMITED,
NELLAYA.
6. THE SECRETARY,
CHERPALCHERRY CO-OPERATIVE URBAN BANK,
CHERPALCHERRY.
7. THE MANAGER,
VIJAYA BANK, NELLAYA.

*** ADDITIONAL R8 TO R16 IMPEADED**

8. MARIA,
WIFE OF MUHAMMED, POONTHIRITHI ALIAS POONCHORI VEEDU,
PATTAMBI, THEKKUM MURI, PALAKKAD DISTRICT.

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9. KHADEEJA,
WIFE OF MUHAMMEDKUTTY, MAKKADAYIL VEEDU,
POST ELAD, MALAPPURAM DISTRICT.
10. AMINA, W/O.KUNHALU,
KURUTHIKUZHI VEEDU, P.O.MARAYAMANGALAM NORTH,
VIA. NELLAYA, PALAKKAD DISTRICT.
11. RUKKIYA, WIFE OF HAMSA,
ELAVAN PARAMBIL VEEDU, MARAYAMANGALAM,
POST IRUMBALASSERRY, VIA NELLAYA, PALAKKAD DISTRICT.
12. SEFIA,
WIFE OF ALI, CHETTIYARTHODI,
POST VALLAPUZHA, KANAYAM, PALAKKAD DISTRICT.
13. FATHIMA,
WIFE OF MOHAMMEDKUTTY, PORICHIYIL VEEDU,
POST PERUNGOD, KOOTTANAD, PALAKKAD DISTRICT.
14. KUNHIMUHAMMED,
SON OF IDRUG, MADATHIL VEEDU, P.O.VALLAPUZHA,
PALAKKAD DISTRICT.
15. MOIDEENKUTTY,
SON OF IDRUG, MADATHIL VEEDU,
P.O.VALLAPUZHA, PALAKKAD DISTRICT.
16. SULAIKHA, WIFE OF USMAN,
KARIKKUMPARAMBIL VEEDU, MAPPATTUKARA,
POST KULUKKALLOOR, PALAKKAD DISTRICT.

* ADDITIONAL R8 TO R16 ARE IMPEADED AS LEGAL REPRESENTATIVES OF
DECEASED 19TH APPELLANT AS PER ORDER DATED 27.05.2015 IN
I.A.NO.2607 OF 2009.

R1 BY ADV. SRI.PRABHA.R.MENON
R5 BY ADV. SRI.G.PRABHAKARAN
R7 BY ADV. SRI.C.P.DAMODARAN NAYAR

THIS APPEAL SUITS HAVING BEEN FINALLY HEARD ON 27-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

P.B.SURESH KUMAR, J.

A.S.No.286 of 1995

Dated this the 27th day of May , 2015

JUDGMENT

The decision in O.S No.46 of 1990 on the file of the Court of the Subordinate Judge of Ottappalam is under challenge in this appeal. Defendants 2 to 6, 8, 11 to 20 and legal representatives of defendant No.21 are the appellants.

2. The suit O.S No.46 of 1990 is a suit for realisation of money. The trial court, after considering the materials on record, decreed the suit in part allowing the plaintiffs to realise a sum of Rs.18,534.75/- with interest at the rate of 6% for Rs.10,792.25. Aggrieved by the decision of the trial court, the plaintiffs filed A.S No.212/1995 before this Court. It was while the said appeal was pending, this appeal has been preferred by the defendants referred to above. A.S No.212 of 1995 was heard by this Court on 30.11.2010. As per the judgment rendered in the said case, the decision of

the trial court was confirmed. It seems that the present appeal was not heard along with the said appeal and in the meanwhile, this appeal was dismissed for default.

3. A perusal of the decision in A.S No.212/1995 would indicate that in the matter of deciding A.S No.212/1995, this Court has considered all the contentions of the defendants including the contentions raised by them in this appeal.

As such, in the light of the decision in A.S No.212/1995, I do not find any merits in the appeal and the same is, accordingly, dismissed.

P.B.SURESH KUMAR, JUDGE

smm