

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE B.KEMAL PASHA

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

CRP.No.168 of 2013

**AS NO.178/2010 of PRL.SUB COURT,TRIVANDRUM.
OS NO.971/2008 of THE ADDITIONAL MUNSIFF'S COURT (RCC)
THIRUVANANTHAPURAM.**

PETITIONER/APPELLANT/1ST DEFENDANT:

**ALSA SPRING FIELDS APARTMENT OWNERS ASSOCIATION,
EASWARA VILASOM ROAD,VAZHUTHACAUD,TRIVANDRUM,
REPRESENTED BY ITS SECRETARY P.K.BHASKARAN,
TC 11/253,CRA 29,KRISHNA BHAVAN,CHITTALLOOR ROAD,
AMBALAMUKKU,KAWDIAR P.O,THIRUVANANTHAPURAM-695 003.**

BY ADV.SRI.G.UNNIKRISHNAN

RESPONDENT/RESPONDENT/PLAINTIFF:

**JACOB JOHN,E-8,ALSA SPRING FEILD APARTMENT,
ESWARA VILASOM ROAD,VAZHUTHCAUD,
THIRUVANANTHAPURAM-695 014.**

**BY ADVS.SRI.S.KRISHNAKUMAR
SMT.K.V.JAYANTHI**

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 03-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

pk

B. KEMAL PASHA, J.

.....
C.R.P. No.168 of 2013
.....

Dated this the 3rd day of July, 2015

ORDER

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I.A. No.7600/2010 in A.S.No.178/2010 for getting the delay of 153 days condoned. It seems that the court below vide order dated 30.06.2012, dismissed the IA. The same is under challenge. It seems that in the said order, the court below has stated that the petitioner had knowledge of the counter claim as early as on 09.06.2010 as the matter was informed to the petitioner by the respondent through a letter on 09.06.2010. It has also been mentioned by the court below that on 30.07.2010 the petitioner issued a reply to the counter petitioner. It is by highlighting the said letter as well as the reply, the court below has chosen to dismiss the IA.

2. Heard learned counsel for the petitioner and learned counsel for the respondent.

3. Even though the court below has relied on those

two letters for passing the impugned order to dismiss the IA, those letters were not produced before the court below and marked in evidence. Without mentioning anything regarding the details of the letters, the court below has passed the impugned order.

4. On hearing the learned counsel for the petitioner and the learned counsel for the respondent, this Court is of the view that the entire matter requires reconsideration, for which the order passed by the court below in IA No.7600/2010 in A.S.No.178/2010 and the consequent dismissal of the appeal on 30.06.2012 have to be set aside.

In the result, this C.R.P. is allowed and the impugned order is set aside. IA No.7600/2010 in A.S.No.178/2010 is remitted to the court below for fresh disposal in accordance with law by giving an opportunity to both sides. The parties shall appear before the court below on 05.08.2015.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/03/07

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PA to Judge