

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

CRP.No.150 of 2015

(AGAINST THE ORDER DATED 05-02-2015 IN OS NO.56/2006 of SUB COURT,
PAYYANNUR).

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REVISION PETITIONER/PETITIONER/DEFENDANT NO.1:

MAHESWARI TEXTILES COMPLEX PARTNER PANNERI KRISHNAN,
AGED 75 YEARS,S/O.CHEEYYAKKUTTI,MADAYI AMSOM,
VENGARA DESOM,KANNUR DISTRICT.

BY ADVS.SRI.M.SASINDRAN
SRI.SATHEESHAN ALAKKADAN

**RESPONDENTS/RESPONDENTS/PLAINTIFF NO.1 AND 2 AND DEFENDANT NOS 2
TO 5 AND SUPPLEMENTAL DEFENDANTS:**

1. PALLIVALAPPIL ABDUL SHUKKOOR,AGED 50 YEARS,
S/O.MUHNAMMADKUNHI,EZHOME AMSOM,
ERIPURAM CHENGAL DESOM,EZHOM P.O.,
PIN-670334,KANNUR DISTRICT.
2. PALLIVALAPPIL SALHUDHEEN,AGED 48 YEARS,
S/O.ABDUL RAHIMAN,EZHOME AMSOM,
ERIPURAM CHENGAL DESOM,EZHOM.P.O.,
PIN-670334,KANNUR DISTRICT.
3. MAHESWARI TEXTILES COMPLEX PARTNER
PALANGADAN VAYALILE VEETIL JANAKI AMMA,
AGED 78 YEARS,D/O.KRISHNAN NAMBIAR,
EZHOME AMSOM,ERIPURAM CHENGAL DESOM,
EZHOM P.O.-670334,KANNUD DISTRICT.
4. M/S.MAHESWARI TEXTILES COMPLEX PARTNER
PARAYIL KUNHIKANNAN,S/O.KUNHIKANNAN,
EZHOME AMSOM,ERIPURAM CHENGAL DESOM,
EZHOM P.O.-670334,KANNUR DISTRICT,AGED 63 YEARS.
5. KILIYARA MURIKKANCHERI KUNHIRAMAN NAIR,
AGED 51 YEARS,AGRICULTURE,EZHOME AMSOM,
ERIPURAM CHENGAL DESOM,EZHOM P.O.,
PIN-670334,KANNUR DISTRICT.

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6. K.M.GOVINDAN NAIR,AGED 63 YEARS,
ADUTHILA,EZHOME AMSOM,
ERIPURAM VHENGAL DESOM,EZHOME P.O.,
PIN-670334,KANNUR DISTRICT.
7. K.M.SATHEESAN,AGED 49 YEARS,ADUTHILA,
EZHOME AMSOM, ERIPURAM CHENGAL DESOM,
EZHOM P.O-670334,KANNUR DISTRICT.
8. K.M.BALAN,AGED 61 YEARS,RETIRED CIVIL SUPPLIES INSPECTOR,
EZHOME AMSOM,ERIPURAM,CHENGAL DESOM,
P.O.EZHOME-670334,KANNUR DISTRICT.
9. K.M.SARALA,TEACHER,AGED 55 YEARS,EZHOME AMSOM,
ERIPURAM,CHENGAL DESOM,P.O.EZHOME-670334,
KANNUR DISTRICT.
10. PULIKKOOL CHELLANAKATH KUNHALEEMA,
AGED 60 YEARS,MADAYI AMSOM,PUTHIYANGADI DESOM,
MADAI P.O.,670304,KANNUR DISTRICT.
11. PULIKKOOL CHELLANAKATH SABOORA,AGED 45 YEARS,
MADAYI AMSOM,PUTHIYANGADI DESOM,
MADAI P.O-670304,KANNUR DISTRICT.
12. PULIKKOOL CHELLANAKATH SAREENA MUHAMMAD SHAFI,
AGED 44 YEARS,MADAYI AMSOM,PUTHIYANGADI DESOM,
MADAI P.O.-670304,KANNUR DISTRICT.
13. PULIKKOOL CHELLANAKATH ABDUL HAKEEM,AGED 40 YEARS,
MADAYI AMSOM,PUTHIYANGADI DESOM,MADAI P.O-670304,
KANNUR DISTRICT.
14. PULIKKOOL CHELLANAKATH KHALEEL,AGED 38 YEARS,
MADAYI AMSOM,PUTHIYANGADI DESOM,MADAI P.O.,
PIN-670304,KANNUR DISTRICT.
15. PULIKKOOL CHELLANAKATH SHAKKEEL,AGED 35 YEARS,
MADAYI AMSOM,PUTHIYANGADI DESOM,MADAI P.O.,
PIN-670304,KANNUR DISTRICT.
16. KILIYARA MURKKANCHERI PADMAVATHI,
D/O.LATE KOLANADA VEETIL KUNHIRAMAN NAIR,
EZHOME AMSOM,ERIPURAM CHENGAL DESOM,ADUTHILA,
P.O.PAZHYANGADI-670358,KANNUR DISTRICT.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 01-04-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

P.BHAVADASAN, J.

C.R.P. No. 150 of 2015

Dated this the 01st day of April, 2015

ORDER

Strange are the ways of filing petitions.

2. This petition is directed against the order dated 05.02.2015 whereby the court below declined to grant individual cheques to partners of the firm pointing out that the amount lying in deposit belongs to the firm and firm alone can seek for withdrawal of the amount.

3. M/s. Maheswari Textiles Complex is the partnership firm. O.S.No.56/2006 was filed by respondents 1 and 2 with a prayer for specific performance of an agreement executed by the defendants in their favour. The suit was decreed and the decree was put in execution. The amount was deposited. The partners of the firm filed individual cheque application claiming their respective shares over the amount deposited in the court.

4. It was objected to by the respondent pointing out that the asset belongs to the firm and only the firm can withdraw the amount.

5. The firm still continues to exist and it is not in dispute that the amount belongs to the firm. If that be so, the shares of the partners will be determined only after account of the partnership is determined. The cheque applications filed by the individual partners are misconceived. The court below was perfectly justified in dismissing the individual cheque applications.

However, the order of this Court will not preclude the firm from seeking withdrawal of the amount.

Sd/-
P.BHAVADASAN
JUDGE

ds

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P.A. to Judge