

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

CRP.No. 355 of 2015 ()

**AGAINST THE ORDER IN IA NO. NO. 422/2015 IN OS 108/2009 OF MUNSIF COURT,
PAYYANNUR DATED 29.5.2015**

REVISION PETITIONER/PETITIONER/PLAINTIFF :

**KAVILE VALAPPIL UNNIKRISSHANN,
AGED 55 YEARS, S/O.RAMAN, PERINGOME AMSOM DESOM,
PERINGOME P.O., THALIPARAMBA, KANNUR DISTRICT, PIN - 670 307.**

**BY ADVS.SRI.MATHEW KURIAKOSE
SRI.G.GIREESH**

RESPONDENTS/RESPONDENTS/DEFENDANTS :

**1. MELOTH VALAPPIL RAVEENDRAN
S/O.KUNHAPPAN, PERINGOME AMSOM DESOM, NHEKLY
NHEKLY PO., KANNUR DISTRICT, PIN - 670 307.**

**2. THE GOVT. OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR
KANNUR - 670 002.**

R2 BY GOVT. PLEADER SRI. REJI JOSEPH

**THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 25-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

B. KEMAL PASHA, J.

.....
C.R.P. No.355 of 2015
.....

Dated this the 25th day of June, 2015

ORDER

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Without alleging any formal defect crept in the
plaint, an application has been filed before the court below
purportedly under Order XXIII Rule 1(3) of the Code of Civil
Procedure, 1908, seeking permission to withdraw from the
suit with liberty to file a fresh suit on the same subject
matter. Through the impugned order, the court below has
dismissed the said I.A.No.422/2015.

2. Heard learned counsel for the petitioner.

3. It seems that the only argument taken by the
petitioner before the court below is that a vigilance case is
pending in the matter, which is under investigation and final
report of the vigilance case will have material bearing in the
suit and, therefore, the petitioner wanted to withdraw from
the suit. No formal defect has been pointed out. The

learned counsel for the petitioner has pointed out that the Government was subsequently impleaded in the suit as additional 2nd defendant and notice under Section 80 could not be served. Of course, the same can be treated as a formal defect. At the same time, the petitioner has not pointed out such a formal defect crept in the plaint.

4. On hearing the learned counsel for the petitioner, this Court is of the view that this C.R.P. can be dismissed by giving liberty to the petitioner to move a fresh application before the court below once again by pointing out formal defects, if any, in the matter.

In the result, this C.R.P. is dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/25/06

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PA to Judge