

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

CRP.No. 182 of 2014

IA.NO.1665/2012 AND IA.NO.1666/2012 IN OS.NO.78/2007 OF MUNSIF COURT,
CHAVAKKAD

REVISION PETITIONER(S)/2ND RESPONDENT/2ND DEFENDANT:

MARSHAL CHACKO @ KOCHUMON,
S/O.PULIKKOTTIL CHAKORU, KATTAKAMBAL VILLAGE,
PAZHANJI DESAM, THALAPPALLY TALUK, NOW MARSHAL CHACKO,
C/O.OM ROAD WAYS, PULIKKOTTIL HOUSE, THOTTAKATTUKARA,
AMBATTUKAVU, MUTTAM - POST, ALUVA - 6

BY ADVS.SRI.SUNNY XAVIER
SMT.C.P.PRETTY

RESPONDENT(S)/PETITIONER & RESPONDENT 1, 3 TO 6/DEFENDANTS & PLAINTIFF:

1. AGNES @ SAMU,
D/O.PULIKKOTTIL CHACKORU, W/O.KOLUNOOR ROYSON,
NOW AGNES @ SAMU, KOLUNOOR HOUSE, AZHAR NAGAR ROAD,
MARAMPILLY POST, CHALAKKAL, ALUVA - 6.
2. AJUNSON @ RAJU,
S/O.PULIKKOTTIL CHACKORU, KATTAKAMBAL VILLAGE,
PAZHAJIDESOM, THALPPILLY TALUK - 680 542.
3. DRODIMOL,
W/O.CHERUVATHOOR ROY, D/O.PULIKKOTTIL CHACKORU,
KATTAKANBAL VILLAGE, PADIJANTTUMURI DESOM,
THALPPILLY TALUK - 680 542.
4. RAHEL, AGED 52 YEARS,
W/O.MANI @ UDAYAKUMAR, PULIKKOTTIL HOUSE, MARKET ROAD,
OPP. GOURIWARA TEMPLE, CHERI POST, PARAVOOR - 683 514.
5. REEMA, AGED 26 YEARS,
D/O.MANI @ UDAYAKUMAR, PULIKKOTTIL HOUSE, MARKET ROAD,
OPP. GOURIWARA TEMPLE, CHERI POST, PARAVOOR - 683 514.
6. REEJA, AGED 24 YEARS,
D/O.MANI @ UDAYAKUMAR, PULIKKOTTIL HOUSE, MARKET ROAD,
OPP. GOURIWARA TEMPLE, CHERI POST, PARAVOOR - 683 514.

R1 TO R3 BY ADV. SMT.M.P.MARY

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON
19-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.BHAVADASAN, J.

C.R.P. No.182 of 2014

Dated this the 19th day of January, 2015

ORDER

This Court, while disposing of the C.R.P. by order dated 14.01.2015, observed as follows:

“3. It is admitted by both sides now before this Court that the amount had already been deposited as directed by the court below. However, from the order it is seen that there is no order either allowing or dismissing I.A.No.1666/2012 and that remains unattended to. Necessarily, once the court below is satisfied that there is compliance with the order in I.A.No.1665/2012, I.A.No.1666/2012 will have to be taken up and disposed of. There is no reason to believe that the said I.A. will not be disposed of in accordance with law.”

2. The above order was passed under the bonafide impression by this Court as submitted by the learned counsel on either side that I.A.No. 1666/2012 is still pending consideration. However, this Court by way of abundant caution sought for a report through the Registry regarding the fate of I.A.No.1666/2012 which was claimed to be

pending by both the counsel at the time of hearing the case. To the utter dismay of this Court, the report received was that I.A.No.1666/2012 was allowed by order dated 01.11.2013. That means the C.M.A. was filed long after the I.A. was allowed and it was without assailing the findings.

The C.M.A. is obviously infructuous and it has to be dismissed. I do so. The order dated 14.01.2015 is reviewed.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge

P.BHAVADASAN, J.

C.R.P. No. 182 of 2014

Dated this the 14th day of January, 2015

ORDER

Aggrieved by the common order in I.A.Nos. 1665/2012 and 1666/2012 in O.S.No.78/2007 dated 01.10.2013, the second respondent before the court below has come up before this Court.

2. The petitioner is the plaintiff in the suit. He obtained an exparte decree. The defendants who suffered an exparte decree filed two applications namely I.A.No. 1665/2012 under Section 5 of the Limitation Act to condone the delay of 145 days in filing the petition to set aside the exparte decree and I.A.No. 1666/2012 under Order IX Rule 13 of C.P.C. to set aside the exparte decree. Objections were filed by the respondents. After hearing both sides, the court below thought it appropriate to condone the delay in

filing the petition to set aside the exparte decree by awarding costs to the respondents and the following order was passed:

“In the result, I.A.No.1665/2012 is allowed on deposit of Rs. 2,500/- (Rupees Two thousand and five hundred only) in court before 31.10.2013. Call on 1.11.2013.”

3. It is admitted by both sides now before this Court that the amount had already been deposited as directed by the court below. However, from the order it is seen that there is no order either allowing or dismissing I.A.No.1666/2012 and that remains unattended to. Necessarily, once the court below is satisfied that there is compliance with the order in I.A.No.1665/2012, I.A.No.1666/2012 will have to be taken up and disposed of. There is no reason to believe that the said I.A. will not be disposed of in accordance with law.

This petition is without merits and it is accordingly dismissed.

C.R.P. No. 182 of 2014

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**P.BHAVADASAN
JUDGE**

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