

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE SUNIL THOMAS

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

FAO.No. 28 of 2012 ()

I.A.645/2011 in O.S.NO.1099/2006 OF THE PRINCIPAL SUB COURT, THRISSUR
DATED 19.09.2011

APPELLANTS/PETITIONERS/DEFENDANTS:

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1. V.V. GANGADHARAN
S/O.LATE VELAPPAN, VAZHAPPULLY VEEDU, CHEMMANNUR DESOM
PUNNAYURKULAM VILLAGE, CHAVAKKAD TALUK, THRISSUR.
 2. V.V.PUSHPAKARAN
S/O.VADASSERY VEETIL VASU, NJAMANENGADU
VADAKKEKKADU VILLAGE, CHAVAKKAD TALUK, THRISSUR.
 3. V.G.DINESHKUMAR
S/O.GANGADHARAN, VAZHAPPULLY VEEDU, CHEMMANNUR DESOM
PUNNAYURKULAM VILLAGE, CHAVAKKAD TALUK, THRISSUR.

BY ADVS.SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA

RESPONDENT/RESPONDENT/PLAINTIFF:

MANAPPURAM ASSETS FINANCE LTD.
SHORNUR REP. BY P.R.ANILKUMAR, SHORNUR P.O. 679 121

R1 BY ADV. SRI.V.B.UNNIRAJ
RR1 BY ADV. SMT.R.S.GEETHA
RR1 BY ADV. SMT.P.ANITHA

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 03-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**THOTTATHIL B. RADHAKRISHNAN &
SUNIL THOMAS, JJ.**

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F.A.O.No.28 of 2012

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Dated this the 3rd day of July, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

Heard.

2. This is an appeal against an order refusing to set aside ex parte decree.

3. At the outset, we may note that the interim order of stay of execution was granted at the stage of admission on 22.01.2013 on conditions as to payment of amounts in different installments. Not a pie was paid. Later, there was a modification order on 18.02.2013 enlarging the time to pay the first among those installments. That was also not paid.

4. The ex parte decree was challenged on the ground that the first among the three defendants went to Sabarimala and when he returned, he was laid up with fever and could not contact the advocate. He also set up a case that he had approached the Chairman of the plaintiff's company for a settlement, particularly when they were personally known to each other being members controlling affairs of a family temple. The fact of the matter

remains that in an earlier round, the ex parte decree which was passed for non-appearance of the defendants was set aside to enable the defendants to settle the matter. That opportunity was not utilized. It is thereafter that the suit was again listed for trial and ultimately, the defendants were set ex parte. The conduct of the appellants does not persuade for interference by this Court. The appeal, therefore, fails.

In the result, this appeal is dismissed.

Sd/-
THOTTATHIL B. RADHAKRISHNAN
Judge

Sd/-
SUNIL THOMAS
Judge

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