

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

FAO.No. 95 of 2009 ()

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AGAINST THE ORDER/JUDGMENT IN OS 141/2007 of SUB COURT, OTTAPPALAM
DATED 31-10-2008**

APPELLANT(S)/PETITIONER/1ST DEFENDANT:

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VARGHESE, S/O.KOCHAPPU,
MANAGING DIRECTOR, JANARAKSHA CHIT FUND PVT LTD.
ARECA NUT MARKET, KOKKALE, THRISSUR.
RESIDING AT PULLOKKORAN HOUSE, NEDUPUZHA, THRISSUR.**

BY ADV. SRI.K.A.SREEJITH

RESPONDENT(S):

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- 1. PADMANABHAN, S/O.VELU, PADMALAYAM,
KARAKKAD AMSAM, ERUPPA DESOM, OTTAPPALAM.**
 - 2. INDIRA, W/O. PARETHODI SATHYAPALAN NAIR,
SREEPADAM SREENAGAR LANE, KANATTUKARA, AYYANTHOLE,
CHAIRMAN KEERTHI AYURVEDA, HOSPITAL (P) LTD., VIYYUR,
THRISSUR.**

R1 BY ADV. SRI.P.JAYARAM

**THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON
01-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

DG

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

F.A.O.No.95 of 2009

Dated this the 1st day of June, 2015

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. In spite of different adjournments from 2009, no process was remitted for service of notice on the unserved 2nd respondent.
2. Notice to the unserved 2nd respondent is dispensed with, she being the 2nd defendant. The plaintiff, 1st respondent appears.
3. This appeal by the 1st defendant is against an order by which an application seeking to set aside an ex parte decree has been dismissed. The suit from which this appeal arises is for realization of money. The 1st defendant was served with notice on 19.9.1997. He did not care to file any written statement contesting the suit. He was ultimately set ex parte on 7.1.2008. The ex parte decree was passed only after the balance court fee was remitted on 3.3.2008. Thus, the ex parte decree ultimately came only on 4.3.2008. We are not impressed to

take the view that the court below was unjustified in dismissing the application to set aside the ex parte decree. Hence, we see no merits in this appeal.

In the result, this appeal is dismissed.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(SUNIL THOMAS, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG