

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

FAO.No. 320 of 2009 ()

AGAINST THE ORDER IN I.A.NO.2421/2004 IN AS 106/1999 of ADDL.SUB
COURT, IRINJALAKUDA

APPELLANT/PETITIONER IN IA::

PURUSHAN, S/O.NAMBALI ELANGAYIL,
AZHIKODE VILLAGE, KODUNGALLUR TALUK.

BY ADV. SRI.T.H.ABDUL AZEEZ

RESPONDENT/RESPONDENT:

BABY, W/O.VELAYUDHAN,
CHETTIYARA HOUSE, AZHIKODE VILLAGE, KODUNGALLUR TALUK.

BY ADV. SRI.K.J.MOHAMMED ANZAR

BY ADV. SRI.A.D.SURESH BABU

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON
20-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**T.R.RAMACHANDRAN NAIR &
K.P.JYOTHINDRANATH, JJ.**

F.A.O.No.320 OF 2009

Dated this the 20th day of May, 2015

JUDGMENT

Jyothindranath, J.

This appeal has been filed against the order in I.A.No.2421/2004 in A.S.No.106/1999 on the file of the Additional Subordinate Court, Irinjalakkuda. The said I.A. is filed for restoration of A.S.No.106/1999, which was filed against the judgment and decree in O.S.No.816/1997 of the Munsiff Court, Kodungallur. The above referred appeal was dismissed by the court below on 13.07.2004. It is submitted in the Bar that it was dismissed for default. Aggrieved by the said dismissal, I.A.No.2421/2004 was filed. The said application was also dismissed as the petitioner was absent. It is submitted in the Bar that it had happened only because the counsel was not present as he has shifted his practice to Ernakulam.

2. After hearing the learned counsel for the appellant, the impugned order is hereby set aside and I.A.No.2421/2004 is restored

and the court below is directed to dispose of the above I.A. as expeditiously as possible. The parties will suffer their costs in this appeal.

The appeal is disposed of accordingly.

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH, JUDGE

SV.