

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

Ex.FA.No. 22 of 2015 ()

(AGAINST ORDER DATED 27.03.2015 IN E.A.NO.116/2015 IN
E.P.NO.237/2012 IN O.S.NO.419/2008 BEFORE THE PRINCIPAL SUB
COURT, KOTTAYAM)

APPELLANT(S)/COUNTER PETITIONER/JUDGMENT DEBTOR:

P.K.PURUSHOTHAMAN
KALARICKAL HOSUE, PALLOM KARA, NATTAKOM VILLAGE
KOTTAYAM.

BY ADVS.SRI.M.P.MADHAVANKUTTY
SRI.S.RANJIT (KOTTAYAM)
SRI.GOKUL DAS V.V.H.

RESPONDENT(S)/PETITIONER/DECREE HOLDER:

SAJIMON
PALANTHANATHU HOUSE, NATTASSERY KARA
MUTTAMBALAM VILLAGE, KOTTAYAM, PIN:686 004.

THIS EXECUTION FIRST APPEAL HAVING COME UP FOR
ADMISSION ON 04-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN &
SUNIL THOMAS, JJ.

.....
Ex.F.A.No.22 of 2015

and

C.M.Appl.No.2415 of 2015
.....

Dated this the 4th day of August, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1.Heard.

2.This appeal instituted against the order dated 27.03.2015 on E.A.No.116 of 2015 in E.P.No.237 of 2012 in O.S.No.419 of 2008 of Principal Sub Court, Kottayam comes up with an application seeking condonation of delay of six days in instituting this appeal. The impugned order led to yet another order, which was consequential. The appellant before us had instituted OP(C) No.1066 of 2015 seeking to quash the order impugned in this appeal and also the consequential order, which was exhibited as Ext.P14 in OP(C) No.1066 of 2015. The order impugned in this appeal was Ext.P13 in that OP(C) filed under Article 227 of the Constitution of India.

3.OP(C) No.1066 of 2015 was decided as per judgment dated 10.06.2015 after duly advertent to and considering the relevant facts to conclude as to whether proclamation of 5 cents of property for sale was justified. The learned single Judge had come to the conclusion that the only course open to the court below was to do so, subject to whatever was stated in paragraph No.3 of the judgment dated 10.06.2015. We called for Judges' Papers of that original petition. We see that the order impugned in this appeal was specifically challenged in that OP(C) by producing the same as Ext.P13. Though the judgment in OP(C) No.1066 of 2015 does not expressly mention Ext.P13, we are clear in our mind that Exts.P13 and P14 were considered by the learned single Judge. Even otherwise; once relief is granted on the basis of Ext.P14, it goes without saying that the petitioner could not have re-agitated the matter in relation to Ext.P13, having regard to the finality attained by the judgment in OP(C) No.1066 of 2015. We are, therefore, unable to entertain the

independent challenge to the order dated 27.03.2015 in E.A.No.116 of 2015 in E.P.No.237 of 2012 in O.S.No.419 of 2008 of the Principal Sub Court, Kottayam, which was Ext.P13 in OP(C) No.1066 of 2015. Having regard to the finality attained by the judgment in OP(C) No.1066 of 2015 and taking into consideration the directions issued thereby to the court below, this appeal cannot be entertained. For the aforesaid reasons, this appeal fails.

In the result, the C.M.Application and the appeal are dismissed.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(SUNIL THOMAS, JUDGE)