

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN**

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

FAO.No. 44 of 2015 ()

**AGAINST THE ORDER/JUDGMENT IN OS 912/2010 of ADDL.SUB COURT, KOLLAM
DATED 23-08-2014**

APPELLANT/PLAINTIFF:

**PRADEEP GOPAL, AGED 56 YEARS,
S/O.GOPAL, RESIDING AT PRASADAM, ANCHUKALLUMOODU
PUNNATHALA CHERRY
KOLLAM WEST VILLAGE - 691 015 REPRESENTED BY THE POWER OF
ATTORNEY N.SUBHASH CHANDRA BOSE, AGED 65,
S/O.M.NARAYANAN, SRI.HARI,
SREENIVASAPURAM, VARKALA P.O., THIRUVANANTHAPURAM.**

BY ADV. SRI.ARUN BABU

RESPONDENT/DEFENDANT:

**ARJUN AND ASSOCIATES
ENGINEERS AND ARCHITECTS, VISWAM TOWERS, ADARSH NAGAR
PATTON P.O., REPRESENTED BY B.ARJUNAN
PROPRIETOR OF ARJUN ASSOCIATES - 695 004.**

**R1 BY ADVS. SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SMT.R.BINDU**

**THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON
19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

vpv

P.N.RAVINDRAN & ANIL K.NARENDRAN, JJ.

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F.A.O.No.44 of 2015

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Dated this the 19th day of March, 2015

JUDGMENT

P.N.Ravindran, J.

The appellant is the plaintiff in O.S.No.912 of 2010 on the file of the Court of the Additional Subordinate Judge of Kollam. The respondent is the sole defendant therein. The relief sought in O.S.No.912 of 2010 is to pass a decree allowing the plaintiff to realise the sum of Rs.8,27,040/- with interest and costs from the defendant and its assets. Upon receipt of summons, the defendant entered appearance and filed a written statement dated 16.8.2011 resisting the suit. In paragraph 5 thereof he contended that the Court of the Additional Subordinate Judge of Kollam lacks territorial jurisdiction to entertain the suit. He contended that the parties had in the agreement dated 26.8.2008 mutually agreed that any dispute/litigation arising during or after the completion of the project shall be subject to the territorial jurisdiction of the Thiruvananthapuram courts. The court below did not consider the issue regarding the territorial jurisdiction of the court immediately after the written statement

was filed. Long afterwards, by order passed on 23.8.2014, the court below ordered the plaint to be returned for presentation before the Sub Court, Thiruvananthapuram. Hence this appeal.

2. The impugned order reads as follows:-

"Plaint returned to present before Sub Court, Thiruvananthapuram."

3. The impugned order is cryptic. It does not set out the contentions of both sides. It does not refer to the claim in the plaint, the defence set up in the written statement and various other matters which have a bearing on the question as to which court has jurisdiction to entertain the suit. On that short ground the impugned order is in our opinion liable to be set aside.

We accordingly allow the appeal and set aside the order passed by the Court of the Additional Subordinate Judge of Kollam on 23.8.2014. The court below is directed to reconsider the issue regarding the territorial jurisdiction of the court to entertain the suit in the light of the rival contentions.

Sd/-
P.N.RAVINDRAN
JUDGE

Sd/-
ANIL K.NARENDRA
JUDGE