

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&
THE HONOURABLE MRS. JUSTICE MARY JOSEPH

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

FAO.No. 178 of 2015 ()

AGAINST THE COMMON ORDER IN I.A.NOS.839 & 840/2015 IN OS 72/2014 of SUB COURT,
KARUNAGAPPALLY DATED 27.07.2015

APPELLANT/PETITIONER/DEFENDANT:

SMT.SOBHANA AGED 39 YEARS
D/O.SATHYAVATHI, RESIDING AT DHANABHAGYA
THEVALAPURAM P.O., PUTHOOR, KOTTARAKARA TALUK
KOLLAM DISTRICT.

BY ADVS.SRI.S.SREEKUMAR (KOLLAM)
SRI.S.BIJU (KIZHAKKANELA)

RESPONDENT/RESPONDENT/PLAINTIFF:

SMT. CHANDRIKA GANGADHARAN, AGED 51 YEARS
W/O.GANGADHARAN, RESIDING AT SEETHALATHU VEEDU
CHERUMANGADU MURI, PUTHOOR VILLAGE, KOTTARAKARA TALUK
KOLLAM DISTRICT 691506.

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION ON
20-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AV

**K. SURENDRA MOHAN
&
MARY JOSEPH, JJ.**

F.A.O.No.178 of 2015

Dated this the 20th day of August, 2015.

J U D G M E N T

Surendra Mohan, J.

This appeal is filed challenging the condition stipulated by the Sub Court, Karunagappally in its common order dated 27.07.2015 in I.A.Nos.839 & 840 of 2015. The petitions were filed by the appellant herein for the purpose of setting aside an ex-parte decree passed against her and for condoning a delay of 119 days in filing the said petition. The court considered the contentions of the petitioner therein and has found that, there was no sufficient explanation for setting aside the exparte decree or for condoning the delay. In spite of the above, the petitions have been allowed on terms. The terms stipulated are that, firstly the petitioner should file written statement on or before the next posting and secondly, an amount of ₹25,000/- has to be paid towards costs. It is made clear in the order that, the costs so deposited would be adjusted towards the decree amount, if the suit is ultimately decreed. Otherwise the petitioner shall be entitled to withdraw the same.

2. According to the counsel for the appellant, the appellant has some financial difficulties and therefore, is not in a position to deposit the amount of ₹25,000/- that has been ordered as costs.

According to the memorandum of appeal, the appellant has filed a written statement on 28.07.2015 in compliance with the direction in the order appealed against. Therefore, she seeks the indulgence of this Court to reduce the amount of costs directed to the deposited.

3. Heard. Having heard the learned counsel appearing for the appellant at length, we are satisfied that, it is necessary to reduce the amount of costs that has been directed to be deposited and to modify the order appealed against, to the said limited extent.

In view of the above, this appeal is partly allowed to the limited extent of modifying the amount directed to be deposited as costs by the court below and fixing the same at ₹10,000/-. The amount shall be deposited within a period of three weeks of the date of receipt of a copy of this judgment. All the other conditions in the order appealed against shall remain unaffected.

Sd/-
K. SURENDRA MOHAN, JUDGE

Sd/-
MARY JOSEPH, JUDGE