

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

FAO.No. 150 of 2013 ()

AGAINST THE ORDER/JUDGMENT IN POP 12/2010 of II ADDL.SUB COURT,THRISSUR
DATED 15-03-2013

APPELLANT/PETITIONER NO.3:

N.S.SIVADAS AGED 24 YEARS
S/O. SIVARAMAN, NADUVILEVEETIL HOUSE
VALLACHIRA DESOM AND VILLAGE, MOSCO NAGAR
THRISSUR TALUK AND DISTRICT (PETITIONERS 1 AND 2 SHOWN
IN THE IMPUGNED ORDER IS NO MORE)

BY ADV. SRI.K.A.SATHEESA BABU

RESPONDENTS/RESPONDENTS:

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1. BIJU, AGED 34 YEARS
S/O. RAMANKUTTY, VETTIKAL HOUSE
VALLACHIRA PAKIRIPALAM DESOM, VALLACHIRA VILLAGE
THRISSUR TALUK AND DISTRICT - 680 001.
 2. BIJU N.S
AGED 32 YEARS, S/O. SIVARAMAN, NADUVILEVEETIL HOUSE
VALLACHIRA DESOM AND VILLAGE
THRISSUR TALUK AND DISTRICT - 680 001.
 3. SHIJU N.S.
AGED 29 YEARS, S/O. SIVARAMAN, NADUVILEVEETIL HOUSE
VALLACHIRA DESOM AND VILLAGE
THRISSUR TALUK AND DISTRICT - 680 001.
 4. STATE OF KERALA
REPRESENTED BY DISTRICT COLLECTOR, THRISSUR.
 5. BINDU
AGED 36, YEARS, D/O. SIVARAMAN
NADUVILEVEETIL HOUSE, VALLACHIRA DESOM AND VILLAGE
THRISSUR TALUK AND DISTRICT - 680 001 AND W/O.
THAZHATHUVEETIL MURALI
MOORKANAD, PORATHISSERY VILLAGE
THRISSUR TALUK AND DISTRICT - 680 001.

R4 BY ADV. GOVERNMENT PLEADER: SRI P P PADMALAYAN
R1 BY ADV. SRI.P.K.SAJEEV

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON
03-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

F.A.O. No.150 of 2013

Dated this the 3rd day of July, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

This appeal is against an order by which the court below dismissed an application for leave to the appellant to sue as an indigent person.

2. The original plaintiff sued seeking leave to prosecute the suit as an indigent. Pending that, he died. His wife and son were impleaded. They contended that they also do not have the means to pay the court fee. The original plaintiff's son was examined before the court below. He initially stated that he is a mason and may obtain about Rs.750/- per day. Later, he corrected himself to say that he will not, ultimately, get so much amount. The court below appears to have taken the view that the valuation of the suit has to be an amount shown as consideration in the document that is sought to be set aside and thereby, total valuation of the suit was trimmed down to Rs.12,000/-. Even if that be so, the court fee due will

be around Rs.10,000/-. In our considered view, the evidence of PW1 on record is sufficient to show that he will not even be able to pay the court fee, and therefore, he will be eligible to sue as an indigent.

The appeal is allowed setting aside the impugned order and thereby allowing P.O.P.No.12/2010 on the file of the II Additional Sub Judge, Thrissur. Parties are directed to mark appearance before the court below on 23.09.2015.

Sd/-
THOTTATHIL B.RADHAKRISHNAN
Judge

Sd/-
SUNIL THOMAS
Judge

dpk

/true copy/ PS to Judge.