

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

FAO.No. 111 of 2011 ()

AGAINST THE ORDER/JUDGMENT IN I.A.NO.3661/2008 AND
I.A.NO.3662/2008 IN OS 341/2000 of I ADDL.SUB COURT,
THIRUVANANTHAPURAM DATED 02-02-2011

APPELLANT(S)/PETITIONER/4TH DEFENDANT:

N.SURENDRAN, S/O.NARAYANAN,
AGED 71 YEARS, RESIDING AT TC 32/808
KADAKAMPALLY VILLAGE, TITANIUM (PO)
NEAR ALL SAINTS COLLEGE, THIRUVANANTHAPURAM.

BY ADVS.SRI.G.SUDHEER
SMT.M.JAYASREE

RESPONDENT(S)/CR.PETITIONER/PLAINTIFF:

M/S.MUTHOOT LEASING AND FINANCE LTD.,
PATTOM BRANCH, THIRUVANANTHAPURAM
REPRESENTED BY IT'S MANAGING DIRECTOR.

BY ADV. SRI.SABU S.KALLARAMOOLA

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR
ADMISSION ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN &
SUNIL THOMAS, JJ.

.....
FAO No.111 of 2011
.....

Dated this the 2nd day of June, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. Heard.

2. This appeal is against an order by which the court below refused to condone delay of 287 days in filing application to set aside ex parte decree in a suit for money based on a hypothecation agreement. The application to set aside the ex parte decree was also dismissed, as a consequence. There are four defendants in the suit. The fourth defendant is in appeal. Two other defendants are his daughter and son-in-law. The suit was decreed for an amount of ₹3,50,680/- with 6% interest on 30.10.2004. The fundamental plea raised by the appealing fourth defendant in the suit was that he has a life interest over the property which is brought to sale. That parcel was admittedly transferred by the appellant to his daughter. The holder of title to

the land has not appealed against. All this apart, we have given our anxious consideration to the ground on which the court below considered the application for condoning delay of 286 days for setting aside the ex parte decree. The court below, on assimilating the facts, held that there was no ground to condone the delay or to set aside the ex parte decree. The plea of the appellant that he was not aware of the suit was found against, after noticing that notice was duly served, including by paper publication. We do not see any ground to interfere with the impugned order. The appeal fails.

In the result, the appeal is dismissed.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(SUNIL THOMAS, JUDGE)