

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH**

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

FAO.No. 3 of 2014 ()

**AGAINST THE ORDER DATED 7.12.2003 IN I.A.NO.932/2011 & I.A.NO.933/2011 IN
O.S.NO.188/2005 OF SUB COURT, KOTTARAKKARA**

APPELLANT/PETITIONER/1ST DEFENDANT:

**FAZALUDEEN
MELATHIL VEEDU, MARKET JUNCTION, KOTTARAKKARA VILLAGE.**

**BY ADVS.SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SRI.MANU SEBASTIAN**

RESPONDENTS/COUNTER PETITIONERS/PLAINTIFFS AND 2ND DEFENDANT:

- 1. JOWHARA BEEVI
SAITHU PURAYIDOM, MUSLIM STREET, PADINJATTINKARA
KOTTARAKKARA VILLAGE.691 506**
- 2. FAZEELA BEEGOM
SAFAYIL, MOOTHANTE VILA, KANNAMPALLY BHAGOM
KAYAMKULAM - 690 502.**
- 3. NAZEERA BEEVI
SAITHU PURAYIDOM, PADINJATTINKARA
KOTTARAKKARA -691 506**
- 4. FOUSIYA
T.C.NO.3/2702, MARAPPALAM, PATTOM
THIRUVANANTHAPURAM - 695 004**
- 5. SULFIKAR @ ANZAR
PULIVILA VEEDU, MARKET JUNCTION
KOTTARAKKARA VILLAGE - 691 506.**

**R1 BY ADVS. SRI.K.B.PRADEEP
SRI.ASHOK SURESH**

**THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON
02-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

T.R. RAMACHANDRAN NAIR & K.P. JYOTHINDRANATH, JJ.

F.A.O.No.3 of 2014

Dated this the 2nd day of July, 2015

J U D G M E N T

Ramachandran Nair, J.

This appeal is filed against the orders passed by the court below in I.A.Nos. 932 & 933 of 2011 in O.S.No.188/2005 on the file of the Sub Court, Kottarakkara.

2. The first defendant is the appellant. The suit was one for partition and a preliminary decree has been passed by the court below. The appellant herein filed the above applications, praying to set aside the exparte decree and to condone the delay of 107 days in filing the said application. Both the applications have been dismissed by the impugned orders.

3. During the pendency of this appeal the parties have settled the disputes through mediation and the learned mediator has produced the memorandum of agreement signed by all the parties. The parties have agreed to partition the property as per the shares shown in the

agreement and each parties have been allowed shares. A plan has also been appended to the memorandum of agreement.

4. Heard both sides.

5. In the light of the settlement between the parties, the appeal is disposed of as settled and the terms of settlement will form part of this judgment. In the light of the settlement between the parties, preliminary decree already passed by the court below in O.S.188/2005 stands modified by the conditions provided in the settlement agreement and therefore the terms if any prescribed by the court below will stand substituted by the mutually agreed terms contained in the memorandum of agreement.

6. What remains therefore is to pass a final decree in tune with the conditions in the memorandum of settlement. We direct the registry to forward the memorandum of agreement along with the appended plan (original). A copy of the memorandum of agreement will be appended to this judgment and the original memorandum agreement along

with the plan will be transmitted to the court below after retaining a photocopy.

We direct the court below to pass final decree in terms of the conditions agreed to by the parties as contained in the memorandum of settlement agreement and the entire final decree proceedings will be expedited.

The appeal is accordingly disposed of as above and there will be no order as to costs in the appeal.

Sd/-

T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-

K.P. JYOTHINDRANATH
JUDGE

//True copy//

P.A. TO JUDGE

shg/