

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

FAO.No. 402 of 2010 ()

AGAINST THE ORDER/JUDGMENT IN OPIND 13/2009 of PRL.SUB COURT,KOTTAYAM
DATED 30-11-2010
APPELLANT(S)/PETITIONER/PLAINTIFF:

INDIRA DEVI, W/O.PASUPATHI NAMBOOTHIRI,
RESIDING AT CHOZHIYATHU ILLAM, ERAYIL KADAVU, BHAGAM
MUTTAMBALAM, KOTTAYAM COLLECTORATE P.O., KOTTAYAM.

BY ADV. SRI.M.J.THOMAS

RESPONDENT(S)/RESPONDENT/DEFENDANT:

SANDHYA RAMAN, W/O.RAMAN NAMBOOTHIRI,
CHOZHIYATHU ILLAM, MUTTAMBALAM, KOTTAYAM
NOW RESIDING AT ERAVIMANGALAM HOUSE
KARUMASSERIL P.O., PARAKADAVU, VILLAGE ALUVA
ERNAKULAM.

R, BY ADV. SRI.LIJI.J.VADAKEDOM

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON
05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

F.A.O.No.402 of 2010

Dated this the 5th day of June, 2015

JUDGMENT

Jyothindranath, J.

This appeal is preferred against the order dated 30.11.2010 in O.P.(Ind.) No.13/2009 on the file of the Principal Sub Court, Kottayam. The facts, in a nutshell, are that the appellant who is a senior citizen, filed a suit for cancellation of a release deed. The court fee to be paid is Rs.1,78,800/-. The case of the appellant is that she is having no sufficient means to pay the court fee and eligible to sue as an indigent person.

2. She was examined before the court as P.W.1. She filed proof affidavit and stated that she is not having sufficient means. In cross examination she admitted that she had already sold a property, but her case is that the consideration was received much earlier. The consideration is only Rs.15,000/-.

3. After going through the order of the court below, it can be seen

that the main reason for not allowing the appellant to file the suit as an indigent person is that she had already sold a property. The court fee to be paid is Rs.1,78,800/-. The appellant deposed that the consideration she received by sale is only Rs.15,000/-. Thus, the finding of the court below in this regard is not correct. After going through the evidence of P.W.1 as well as Ext.B1 document, we are convinced that the appellant/petitioner has no means to pay court fee.

Hence, the impugned order is hereby set aside and O.P.(Ind.) No.13/2009 is allowed.

The appeal is allowed as above. The parties will suffer their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(K.P. JYOTHINDRANATH,, JUDGE.)

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