

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT:
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

RSA.No. 1249 of 2004 ()

**AGAINST THE DECREE & JUDGMENT IN AS 88/1996 of SUB COURT,
MUVATTUPUZHA DATED 24-09-2004**

**AGAINST THE DECREE & JUDGMENT IN OS 107/1993 of MUNSIF COURT,
MUVATTUPUZHA DATED 12-07-1996**

APPELLANT(S)/PLAINTIFFS/RESPONDENTS:

- 1. LEELAMMA, AGED 58, W/O.MATHEW,
KAKKANATIL (THURUTHEL), ENANALLOOR KARA
ENANALLOOR VILLAGE, AYAVANA P.O., MUVATTUPUZHA.**
- 2. MATHEW, AGED 60, S/O.VARKEY,
KAKKANATIL (THURUTHEL), ENANALLOOR KARA
ENANALLOOR VILLAGE, AYAVANA P.O., MUVATTUPUZHA.**

BY ADV. SRI.JOSE J.MATHAIKAL

RESPONDENT(S)/DEFENDANTS/APPELLANTS:

- 1. PAILY, AGED 75, S/O.OUSEPH (DIED),
KOTTANCHERIL HOUSE, ENANALLOOR KARA, ENANALLOOR VILLAGE
AYAVANA P.O., MUVATTUPUZHA.
(LRs IMPEADED AS ADDITIONAL R4 & R5)**
- 2. PAUL, AGED 48, S/O.PAILY,
KOTTANCHERIL HOUSE, ENANALLOOR KARA
ENANALLOOR VILLAGE, AYAVANA P.O., MUVATTUPUZHA.**
- 3. JOSE, AGED 42, S/O.PAILY,
KOTTANCHERIL HOUSE, ENANALLOOR KARA
ENANALLOOR VILLAGE, AYAVANA P.O., MUVATTUPUZHA.**

ADDITIONAL RESPONDENTS:

- 4. VARGHESE, S/O.PAILY, AGED 40 YEARS,
KOTTANCHERIL HOUSE, AYAVANA P.O.,
ENANELLOOR, MUVATTUPUZHA.**
- 5. ROSILY JOY, 38 YEARS, W/O.JOY AND D/O.PAILY,
KARIANKAL HOUSE, MERYLAND P.O., PALA, KOTTAYAM DISTRICT.**

**(THE LEGAL REPRESENTATIVES OF THE DECEASED RESPONDENT NO.1 ARE
IMPEADED AS ADDITIONAL RESPONDENTS 4 AND 5 AS PER ORDER DATED 9.11.2015 IN
I.A.NO.2336/2015)**

**R2 BY ADV. SRI.K.A.JALEEL
R2 BY ADV. SRI.T.T.MUHAMOOD**

**THIS REGULAR SECOND APPEAL HAVING BEEN FINALLY HEARD ON 09-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ALEXANDER THOMAS, J.

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R.S.A.No. 1249 of 2004

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Dated this the 9th day of November, 2015

J U D G M E N T

This Second Appeal is directed against the impugned judgment and decree of the lower appellate court, which had reversed the judgment and decree of the trial court, which was in favour of the plaintiffs. The suit is one for permanent prohibitory injunction to restrain the defendants from interfering with the peaceful enjoyment of the plaint schedule property by the plaintiffs.

2. It is now submitted by Sri.Jose.J.Mathaikal, learned counsel appearing for the appellants and Sri.C.Y.Vinodh Kumar, learned counsel appearing for the respondents that during the pendency of the appeal, both parties to the case have arrived at a settlement of the disputes involved in this case, to the best satisfaction of both sides and that, according to the settlement, the defendants have agreed that they will not in any manner interfere with the peaceful enjoyment of the plaint schedule property by the plaintiffs and the parties have accordingly agreed to withdraw all the

cases filed by them. Both sides submit that the copy of the memorandum of settlement is produced as Anx.A-1 along with the affidavit dated 19.10.2015 sworn to by the appellants in this case. Both sides also submit that the Second Appeal may be disposed in the light of Anx.A-1 settlement and that terms and conditions of Anx.A-1 settlement may be recorded by this Court so as to form part of the decree.

3. In the light of the submissions made by both sides, it is ordered that this Regular Second Appeal will stand finally disposed of in terms of Anx.A-1 settlement produced along with the affidavit dated 19.10.2015 filed by the appellants in I.A.No.2745/2015 in this R.S.A. and that the said settlement will form part of the decree.

4. In the light of this common position, as the appellants/plaintiffs are withdrawing their Original Suit, it is made clear that this will be with liberty to the appellants/plaintiffs to institute a fresh suit, in case there is any violation of the aforestated settlement.

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. To Judge.

