

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

OP(C).No. 663 of 2012 (O)

AGAINST THE JUDGMENT IN OS NO.463/2006 of SUB COURT-III A, KOZHIKODE

AGAINST THE ORDER IN EP NO.103/2011 of PRINCIPAL SUB COURT, THALASSERY

PETITIONER(S):

E.SUKUMARAN, AGED 58 YEARS
S/O.KUNHIKANNAN NAIR
RESIDING AT KOLAPARAMBATH HOUSE, P.O.MURINGODY
KANNUR.

BY ADVS.SRI.V.V.SURENDRAN
SRI.P.A.HARISH

RESPONDENT(S):

M.SIDHIKUTTI
S/O.MOIDEEN RAWTHER, RESIDING AT LALU NIVAS
P.O.NORTH BEYPORE
NADUVATTOM AMSOM BEYPORE DESOM OF KOZHIKODE TALUK
KOZHIKODE-673015.

BY ADV. SRI.K.M.FIROZ
BY ADV. SMT.M.SHAJNA

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 01-06-2015, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

OP(C) NO.663/2012

APPENDIX

PETITIONER(S) EXHIBITS

EXHIBIT P1: TRUE COPY OF THE AFFIDAVIT FILED IN SUPPORT OF IA 4098/11.

EXHIBIT P2: TRUE COPY OF THE AFFIDAVIT FILED IN SUPPORT OF THE APPLICATION.

EXHIBIT P3: TRUE COPY OF THE COUNTER STATEMENT FILED BY THE RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE COUNTER STATEMENT FILED BY THE RESPONDENT.

RESPONDENTS' EXHIBITS :NIL

//TRUE COPY//

A.HARIPRASAD, J.

O.P.(C). No.663 of 2012

Dated this the 1st day of June, 2015

JUDGMENT

Petitioner is the defendant in O.S.No.463 of 2006 filed before the Sub Court-III A, Kozhikode. The suit is one for recovery of money. The suit was decreed exparte. The petitioner/defendant filed an application under Order 9 Rule 13 of the Code of Civil Procedure with a petition under Section 5 of the Limitation Act for condoning the delay. In the meantime, the decree was transferred to the Sub Court, Thalassery for execution and execution petition was numbered in the transferee court as E.P.No.103 of 2011.

2. Heard the learned counsel for the petitioner.

3. Learned counsel for the petitioner submitted that he could not get any instruction as to whether the order passed by this Court on 24.02.2012 directing the petitioner to deposit ₹50,000/- before the Principal Sub Court, Thalassery had been complied with or not. That direction was passed by this Court as a condition precedent for granting a stay of execution. Grievance of the petitioner is that the court below did not consider the pleadings correctly. It is not clear as to whether anything survives for consideration or whether the learned Sub Judge has disposed

of the applications. Therefore, the learned Sub Judge-III A, Kozhikod is directed to dispose of Exts.P1 and P2 applications, if not already disposed of, within a period of one month from the date of receipt of a copy of this judgment.

The petition is disposed of as above.

A. HARIPRASAD, JUDGE.

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