

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

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

RSA.No. 654 of 2006 ()

**AS 128/2002 of SUB COURT, KASARAGOD DATED 27-02-2006
OS 217/2001 of PRL. MUNSIFF'S COURT, KASARAGOD**

APPELLANT/APPELLANT/PLAINTIFF::

**THE PLANTATION CORPORATION OF
KERALA LIMITED, KOTTAYAM, REPRESENTED BY
ITS MANAGING DIRECTOR.**

**BY ADVS.SRI.JOSEPH MARKOSE (SR.)
SRI.MATHEWS K.UTHUPPACHAN
SRI.RAJU SEBASTIAN VADAKKEKARA,
(STANDING COUNSEL FOR PLANTATION CORPORATION OF KERALA)**

RESPONDENTS/RESPONDENTS/DEFENDANTS::

- 1. N.A. MOIDU, S/O. ABDULRAHIMAN,
RESIDING AT POVVAL, P.O. MULIYAR, MULIYAR VILLAGE,
KASARAGOD TALUK, KASARAGOD DISTRICT.**
- 2. SUHARA, W/O. N.A. MOIDU,
RESIDING AT POVVAL, P.O. MULIYAR, MULIYAR VILLAGE,
KASARAGOD TALUK, KASARAGOD DISTRICT.**

R1 BY ADV. SRI.K.V.SOHAN

**THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION
ON 09-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

P.B.SURESH KUMAR, J.

R.S.A.No.654 of 2006

Dated this the 9th day of November, 2015

JUDGMENT

The plaintiff in a suit for injunction is the appellant.

2. The plaintiff is a company owned by the Government of Kerala. The case set up by the plaintiff is that the plaint schedule property is part of the Government land transferred to them by the Agricultural Department of the State for their activities. The defendants resisted the suit by filing a written statement. In the written statement filed by them, they disputed the identity of the plaint schedule property. They also contended that the plaint schedule property is the property obtained by them as per Ext.B1 patta. Though the identity of the suit property was

disputed by the defendants, the plaintiff has not taken out a commission to identify and locate the suit property. The trial court, in the circumstances, dismissed the suit and the decision of the trial court has been confirmed in appeal. The plaintiff has thus come up in the second appeal challenging the concurrent decisions against them.

3. Heard the learned counsel for the appellant.

4. It is beyond dispute that the defendants in the written statement disputed the identity of the plaint schedule property. According to them, plaint schedule property is the property obtained by them as per Ext.B1 patta. In so far as the plaintiff has not taken any steps to identify the suit property when the identity of the same was disputed by the defendants, the courts below cannot be faulted for having non-suited the plaintiff.

There is no substantial question of law, much less

any substantial question of law involved in the second appeal. The second appeal, in the circumstances, is devoid of merits and the same is accordingly dismissed.

P.B.SURESH KUMAR, JUDGE.

smm