

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

OP(C).No. 1224 of 2013 (O)

I.A. NO.211/2013 AND 212/2013 IN OS. NO. 312/2010 OF MUNSIF COURT, ALUVA.

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PETITIONER/PETITIONER/PLAINTIFF:

**ROSY, AGED 65 YEARS,
W/O.JOSEPH, KOLLAMKUDY, NEELISWARAM KARA,
KALADY VILLAGE, ALUVA TALUK.**

BY ADV. SRI.PAULSON THOMAS.

RESPONDENT/RESPONDENT/DEFENDANTS:

- 1. KRISHNAKUMARI, W/O.RAJAPPAN,
THURUTHIPARAMBIL, NEAR Y.C.A. JUNCTION,
NEELISWARAM KARA, KALADY VILLAGE,
ALUVA TALUK, PIN-683 015.**
- 2. RAJAPPAN, WORKING IN K.S.E.B.,
S/O.THURUTHIPARAMBIL KUTTAPPAN &
H/O. 1ST DEFENDANT, NEAR Y.C.A. JUNCTION,
NEELISWARAM KARA, KALADY VILLAGE,
ALUVA TALUK, PIN-683 015.**
- 3. THOMAS @ PANGOLA, S/O.DEVASY,
PANGOLA, KALAMPATTUPURATHU KARA,
NEELISWARAM KARA, KALADY VILLAGE,
ALUVA TALUK, PIN-683 015.**

R1 & R2 BY ADV. SRI.WILSON URMESE.

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 01-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

OP(C).No. 1224 of 2013 (O)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1- COPY OF THE PLAINT IN O.S.312/2010.

EXHIBIT P2- COPY OF THE WRITTEN STATEMENT OF DEFENDANTS 1 AND 2.

EXHIBIT P3- COPY OF THE APPLICATION FOR AMENDMENT.

EXHIBIT P4- COPY OF THE APPLICATION FOR REMOVING THE SUIT FROM LIST.

EXHIBIT P5- COPY OF THE ORDER IN I.A.211 & 212/2013.

EXHIBIT P6- COPY OF THE APPLICATION FOR RESTORATION.

EXHIBIT P7- COPY OF THE ORDER OBTAINED ON 19/05/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

O.P.(C) No.1224 of 2015

Dated this the 1st day of September, 2015

JUDGMENT

The petitioner is the plaintiff in the suit for injunction has approached this Court impugning rejection of an application for amendment of the plaint.

2. As seen from the impugned order, the reason for rejection is that the suit was listed for trial. It is to be noted that this impugned order was issued on 14.2.2013 and more than two years have been lapsed. It is now stated that the suit was dismissed for default and thereafter restored.

Considering the facts and circumstances, this Court is of the view that the amendment application shall be considered on merits by the court below and shall take appropriate decision thereon. However, taking note of the fact that the petitioner has filed amendment application only in the fag end of the trial, this Court is of the view that the petitioner is liable to pay costs of Rs.2,000/- to the defendants. The costs shall be paid to the learned counsel appearing for the defendants before this Court within two weeks.

The original petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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