

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

OP(C).No. 51 of 2015 (O)

CMA NO. 95/2010 OF DISTRICT COURT, PALAKKAD
I.A NO. 276/2013 IN OS.NO. 267/2010 of MUNSIFF COURT, CHITTUR

PETITIONER :

VARADHARAJAN
S/O. LATE A.K. SESHAYYER, AGED 55 YEARS
SREELAKSHMI, ALAMPALLAM
VADAVANNUR VILLAGE
CHITTUR TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENT :

SUBRAMANIA IYER
S/O. LATE RAMACHANDRA IYER
RESIDING AT OLD VILLAGE, ALAMPALLAM
KOLLENGODE POST, VADAVANNUR VILLAGE
CHITTUR TALUK, PALAKKAD DISTRICT.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 08-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

...2/-

OP(C).No. 51 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS :

**EXT.P1 : COPY OF THE JUDGMENT DATED 25-7-2014 IN CMA NO. 95/2010
PASSED BY THE DISTRICT JUDGE, PALAKKAD.**

**EXT.P2 COPY OF THE PETITION AND AFFIDAVIT IN SUPPORT OF IA
NO. 276/2013 IN OS NO. 267/2010 FILED BEFORE THE MUNSIF
COURT, CHITTUR.**

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

P. BHAVADASAN, J.

O.P.(C). No. 51 of 2015

Dated this the 8th day of January, 2015.

JUDGMENT

The reliefs sought for in this Original Petition are as follows:

- “i. Direct the Munsiff's Court, Chittur to consider on merits Ext.P2 without being influenced by the time limit set in Ext.P1.
- ii. Hold that O.S. No. 267 of 2010 on the file of the Munsiff's Court, Chittur is to be disposed within a period of 6 months or such other time limit as fixed by this Hon'ble Court, by setting aside the time limit fixed in Ext.P1.”

2. Against an interim order of injunction, the defendant went up in appeal as C.M.A. No. 95 of 2010. When the C.M.A. came up for final hearing, both parties submitted that the suit was ripe for trial and there may be a direction to dispose of the suit. Accordingly, the lower appellate court in C.M.A. passed an order as follows:

“Thus considering the submissions, the parties now seems to be agreed on the point that final decision has to be taken in the suit. The counsel for the parties highlighted the fact that for the last four years there was injunction. The injunction for few months may not create any new harm to any party.

Under such circumstances, this appeal is dismissed on the joint submissions of counsel with a rider that the suit shall be disposed of expeditiously within an outer limit of 6 months from today.”

3. The petitioner now points out that he has filed an application for setting aside the commission report and that has to be considered and therefore it may not be possible for the trial court to dispose of the suit within the time fixed by the lower appellate court.

4. If that is the apprehension of the petitioner, the proper remedy is not to approach this Court for extension of time. It is for the petitioner to approach the appropriate court for appropriate relief.

Reserving the liberty of the petitioner to do so, this
Original Petition is dismissed.

P. BHAVADASAN,
JUDGE

sb.