

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

OP(C).No. 56 of 2015 (O)

LOK ADALAT CASE NO.5507/14 DATED 06.12.2014

OS 490/2014 of MUNSIF COURT, KARUNAGAPPALLY DATED 28-11-2014

PETITIONER :

SAJI MANNARETH, AGED 40 YEARS
S/O. SADANANDHAN, MANNARETHU HOUSE,
MANAPALLY SOUTH MURI PARAMBATH, KARUNAGAPPALLY,
KOLLAM DISTRICT-690539.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS :

1. GOVINDHANKUTTY,
S/O. MANAPALLI VADAK MURIYIL CHITHIRAVEETIL
DAMODHARAN UNNITHAN,
PAVUMBA VILLAGE, KARUNAGAPPALLY TALUK
KOLLAM DISTRICT-676001.

2. SREEDHARAN,
S/O. MANAPALLYTHEK MURIYIL KUTTIYIL VEETIL PADMANABHAN
PAVUMBA VILLAGE, KARUNAGAPPALLY TALUK
KOLLAM DISTRICT-676001.

3. BUVANACHANDRAN,
S/O. MANAPALLY THEK MURIYIL PARAYAT
KIZHAKETHIL VEETIL KRISHNAN,
PAVUMBA VILLAGE, KARUNAGAPPALLY TALUK,
KOLLAM DISTRICT-676001.

4. PARAMBATHUKULANGARA SREE MAHAKSHETRAM
PAVUMBAKALI,
REP. BY ITS PRESIDENT GOPI,
S/O. MANAPALLI THEK MURIYIL KALLETH VEETIL GOPALAN,
PAVUMBA VILLAGE, KARUNAGAPPALLY TALUK,
KOLLAM DISTRICT-676001.

5. PARAMBATHUKULANGARA SREE MAHAKSHETRAM
PAVUMBAKALI,
REPRESENTED BY ITS VICE PRESIDENT PRASANNAKUMAR,
S/O. MANAPILLI VADAK MURIYIL MELOOT VEETIL
KRISHNAKURUP,
PAVUMBA VILLAGE, KARUNAGAPPALLY TALUK,
KOLLAM DISTRICT-676001.

6. PARAMBATHUKULANGARA SREE MAHAKSHETRAM
PAVUMBAKALI,
REPRESENTED BY ITS TREASURER RADHAKRISHNAN,
S/O. MANAPILLI THEK MURIYIL MADHAVASADANAM VEETIL
MADHAVAN
PAVUMBA VILLAGE, KARUNAGAPPALLY TALUK,
KOLLAM DISTRICT-676001.

7. N.K. BALASUBRAMANIN,
S/O. ADVT. KRISHNA SWAMI, ADVOCATE COMMISSIONER,
KARUNAGAPPALLY.P.O., KOLLAM DISTRICT-676001.

8. N.P. RAJENDRAN,
ELECTORAL OFFICER, PARAMBATHUKULANGARA DEVASWOM,
KOLLAM DISTRICT-676001.

R1 TO R3 BY ADV. SRI.BENNY VARGHESE (THETTAYIL)
R4 TO R6 BY ADV. SRI.C.A.CHACKO

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS :

P1. COPY OF THE BYELAW OF THE PRAMBATHUKULANGARA SREE MAHA KSHETRAM-PAVUMBA KALI MANAGING COMMITTEE DATED 26-1-92.

P2. COPY OF THE PLAINT IN O.S. NO. 490 OF 2014 ON THE FILE OF THE MUNSIF COURT, KARUNAGAPPALLY DATED 28-11-14.

P3. COPY OF THE AWARD PASSED BY THE LOK ADALATH NO. 5507 OF 2014 DATED 6-12-14.

P4. COPY OF THE PLAINT IN OS NO. 548 OF 2014 ON THE FILE OF THE MUNSIF COURT, KANRUNAGAPPALLY DATED 16-12-14.

P5. COPY OF THE PUBLIC NOTICE ISSUED BY THE RESPONDENTS 7 AND 8 DATED 14-12-14.

RESPONDENTS' EXHIBITS :

R4(A) COPY OF PUBLIC NOTICE DATED 12.12.2014 PUBLISHED BY 7TH RESPONDENT.

R4(B) COPY OF ELECTION NOTIFICATION DATED 14.12.2014 PUBLISHED BY 8TH RESPONDENT.

R4(C) COPY OF PUBLIC NOTICE FOR ELECTION PUBLISHED IN MATHRUBHOOMI DAILY DATED 23.12.2014

R4(D) COPY OF INTIMATION DATED 28.12.2014 PUBLISHED BY 8TH RESPONDENT.

R4(E) COPY OF REPRESENTATION DATED 08.01.2015 SUBMITTED BY 7TH RESPONDENT BEFORE THE ASSISTANT COMMISSIONER OF POLICE KARUNAGAPALLY.

R4(F) COPY OF REPRESENTATION DATED 03.01.2015 OF 8TH RESPONDENT BEFORE THE S.I., KARUNAGAPALLY.

R4(G) COPY OF I.A.NO.2340/14 FILED BEFORE VACATION COURT, KOLLAM.

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R4(H) COPY OF NOTICE DATED 30.12.2014 ISSUED TO 5TH
RESPONDENT.

R4(I) COPY OF JUDGMENT DATED 06.11.2012 IN W.P(C)
NO.24261/2012.

R4(J) COPY OF JUDGMENT IN W.P. (C)NO.13590/2014 DATED
30.05.2014.

// True Copy //

P.A. To Judge

DSV/24/8/15

B.KEMAL PASHA, J.

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O.P.(C). No.56 of 2015

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Dated this the 13th day of August, 2015

J U D G M E N T

O.S.No.548 of 2014 before the court below purportedly one under Order I Rule 8 CPC. It has come out that even prior to the first posting date of the case, the defendants, who were then arrayed in the plaint, and the plaintiff in the suit appeared before the Lok Adalath on 06.12.2014 and entered a settlement. On the basis of the settlement arrived at, the Adalath has passed Exhibit P3 award. The said award is sought to be set aside.

2. Heard the learned counsel for the petitioner and the learned counsel for respondents 4 to 6.

3. Admittedly, Exhibit P3 is passed based on a

compromise between the parties. In such a case, it has to be considered whether such a compromise is possible in a suit like this. The present suit will come within Explanation (b) of the Order XXIII Rule 3-B(2) CPC. In such case, for entering into a compromise, leave of the court ought to have been obtained, for which an application seeking leave ought to have been filed. In such an I.A. also, the court below ought to have served notice through publication within the meaning of Order I Rule 8 CPC. Then only the court below could grant leave. Here, admittedly, leave was not obtained. According to the petitioner, the suit itself is collusive. That is a different matter that has to be considered in the suit. Matters being so, this is not a suit in which the matter could be settled; whereas the same should go for trial. Matters being so, Exhibit P3 is liable to be set aside.

In the result, this Original Petition (Civil) is allowed. Exhibit P3 stands set aside. The suit revives and the same is remitted to the court below for fresh disposal in

accordance with law. The court below shall make every endeavour to dispose of the suit expeditiously.

Sd/-

B.KEMAL PASHA
JUDGE

DSV/17/8/15