

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

OP(C).No. 159 of 2015 (O)

(O.S.52/2012 OF SUB COURT, CHERTHALA)

PETITIONER:

P.S.JOHN, AGED 68 YEARS,
S/O.SOLAMON, PANAKKAL HOUSE, THURAVUR P.O,
KUTHIYATHODU, CHERTHALA TALUK AND ALAPPUZHA DISTRICT.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT:

P.A.JOHN, AGED 71 YEARS
S/O.AUGUSTINE, POLLAYIL HOOUSE, KANNAMALY P.O.
KUTHIYATHODU, CHERTHALA TALUK, ALAPPUZHA DISTRICT.

BY ADV. SRI.PHILIP MATHEW

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 04-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 TRUE COPY OF THE O.S NO 52 OF 2012 ON THE FILE OF SUB COURT,CHERTHALA.

EXHIBIT P2 TRUE COPY OF THE LAWYER NOTICE DATED 4-1-2012 ISSUED BY THE RESPONDENT TO THE PETITIONER.

EXHIBIT P3 TRUE COPY OF THE REPLY DATED 10-01-2012 ISSUED BY THE PETITIONER TO THE EXHIBIT P2 NOTICE.

EXHIBIT P4 TRUE COPY OF THE EX-PARTE DECREE DATED 20-09-2012 IN O.S NO 52 OF 2012 ON THE FILE OF THE SUB COURT,CHERTHALA.

EXHIBIT P5 TRUE COPY OF THE EX-PARTE JUDGMENT DATED 20-09-2012 IN O.S NO 52 OF 2012 ON THE FILE OF THE SUB COURT,CHERTHALA.

EXHIBIT P6 TRUE COPY OF THE INTERLOCUTORY APPLICATION TO SET ASIDE THE EXPARTE DECREE AS I.A NO 403/13 IN O.S NO 52/2012 ON THE FILE OF SUB COURT,CHERTHALA.

EXHIBIT P7 TRUE COPY OF THE INTERLOCUTORY APPLICATION TO CONDONE THE DELAY AS I.A NO 404/13 IN O.S NO 52/2012 ON THE FILE OF SUB COURT,CHERTHALA.

EXHIBIT P8 TRUE COPY OF THE ORDER DATED 19-08-2014 IN I.A NO 403/13 IN O.S NO 52/2012 ON THE FILE OF SUB COURT,CHERTHALA.

EXHIBIT P9 TRUE COPY OF THE ORDER DATED 19-08-2014 IN I.A NO 404/13 IN O.S NO 52/2012 ON THE FILE OF SUB COURT,CHERTHALA

EXHIBIT P10 TRUE COPY OF THE C.M.A NO 5 OF 2015 ON THE FILE OF DISTRICT COURT,ALAPPUZHA.

EXHIBIT P11 TRUE COPY OF THE I.A NO.112 OF 2015 IN C.M.A NO 5 OF 2015 ON THE FILE OF DISTRICT COURT,ALAPPUZHA

EXHIBIT P12 TRUE COPY OF I.A.432/2013 BEFORE SUB COURT, CHERTHALA WITH A PRAYER TO EXECUTE THE SALE DEED IN FAVOUR OF HIM THROUGH COURT.

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EXHIBIT P13 TRUE COPY OF THE ALLEGED AGREEMENT DATED 09-06-2011
EXECUTED BETWEEN THE PETITIONER AND RESPONDENT

RESPONDENT'S EXHIBITS: NIL

// True Copy //

P.A. To Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.159 OF 2015

Dated this the 4th day of March, 2015.

J U D G M E N T

The limited prayer in this original petition is for a direction to the court below to keep the delivery proceedings in abeyance till the delay condonation petition filed along with C.M.A.No.5/2015 is considered and disposed of.

2. Learned counsel appearing for the petitioner pointed out that since the above appeal is filed out of time, the petitioner filed a delay condonation petition along with the same. He also points out that there may be a direction to consider the delay condonation petition and till that petition is considered, delivery proceedings may be kept in abeyance.

This original petition is disposed of directing the court where C.M.A No.5/2015 is pending to take up the delay condonation petition filed along with the appeal and dispose of it as expeditiously as possible, at any rate, within a period of three

weeks from today and till then, delivery proceedings shall be kept in abeyance.

Sd/-

P.BHAVADASAN
JUDGE

smp