

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

OP(C).No. 397 of 2015 (O)

I.A. NO. 152/2015 IN O.S. NO. 218/2012 OF SUB
COURT, KOCHI.

PETITIONER(S):

1. JENNIFER LOUSIA ALWYN, AGED 63 YEARS,
W/O. LATE CAPT NOEL GEORGE ALWYN,
THE ANCHORAGE 928,
E/F/BLOCK, 3RD CROSS, AGNIHAMSA ROAD,
KUVEMPUNAGAR, MYSORE,
MARNATAKA -570 023 REPRESENTED BY POWER OF
ATTORNEY HOLDER KAROLINE ANN ALWYN,
THE 2ND PETITIONER.
2. KAROLIN ANN ALWYN, AGED 37 YEARS
D/O LATE CAPT. NOEL GEORGE ALWYN,
THE ANCHORAGE 928,
E/F/BLOCK, 3RD CROSS, AGNIHAMSA ROAD,
KUVEMPUNAGAR, MYSORE, MARNATAKA -570 023.

BY ADVS.SRI.A.JAYASANKAR
SRI.C.V.MANUVILSAN
SRI.MANU GOVIND

RESPONDENT(S):

MRS. JOAN PHILOMINA GOMES, AGED 65 YEARS,
W/O.ASHLEY AGNAL GOMES, CC NO.1/47,
FORT VYPEEN KOCHI TALUK,
ERNAKULAM DISTRICT 682001.

BY ADV. SRI.M.A.ASIF

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON
01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP(C).No. 397 of 2015 (O)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1: TRUE PHOTOCOPY OF THE PLAINT IN OS
NO.218/2012, BEFORE THE SUBORDINATE COURT, KOCHI

EXHIBITP2: A TRUE POHOTOCOPY OF THE PLAINT IN OS NO.
119/2013, BEFORE THE SUBORDINATE COURT,KOCHI

EXHIBIT P3:A TRUE PHOTOCOPY OF ORDER PASSED BY THE
SUBORDINATE COURT,KOCHI IN IA NO,152/2015 IN OS 218/2012
DATED 7.2.2015

RESPONDENT(S) ' EXHIBITS

P. BHAVADASAN, J.

O.P.(C). No. 397 of 2015

Dated this the 1st day of April, 2015.

JUDGMENT

It is heartening to note that the parties were able to settle the disputes in mediation and the terms of the compromise entered into between the parties have been forwarded to this Court.

2. Both the suits have been settled between the parties and the terms of mediation read as follows:

"1) The parties agree that the above O.P.(C) No. 397/2015 arises from the order of the Sub Judge, Kochi in I.A. No. 152/15 in O.S. No. 218/2012, dismissing the petition for joint trial of O.S. No.218/2012 with O.S.No.19/2013 both pending before the Sub Judge, Kochi.

2) The parties agree that O.S. 218/2012 is filed by the petitioners herein seeking recovery of an amount of Rs.9,00,000/- (Rupees nine lakhs only) with interest from late Mrs. Camille Ann Alwyn and that on her death, the respondent was impleaded as the legal heir of the deceased Mrs.

Camille Ann Alwyan and O.S. No.119/2013 is filed by the petitioners herein seeking partition and for getting half right in the property scheduled in O.S.No. 119/2013.

3) In the course of mediation, the respondent has agreed to pay a lumpsum amount of Rs.5,00,000/- (Rupees five lakhs only) to the petitioners in full and final settlement of the claim in O.S. 218/12. The petitioners have accepted the settlement and received today the amount of Rs.5,00,000/- (Rupees five lakhs only) from the respondent vide Demand Draft No.552596 dated 24.3.2015 drawn on the South Indian Bank, Fort Cochin Branch in the name of the 2nd petitioner Ms. Caroline Ann Alwyn towards full and final settlement of the suit claim.

4) The 2nd petitioner has undertaken that since the respondent is her aunt on her paternal side, she is prepared to meet all financial and medical needs of the respondent in future whenever the respondent is in need for the same.

5) The respondent assures that if and when she disposes the plaint schedule property and house

in O.S.119/2013, she will inform the 2nd petitioner, her niece, in this context.

6) The petitioners have undertaken to withdraw O.S. 218/2012 and O.S. 119/2013 pending before the Sub Court, Kochi within a week of signing this settlement.

7) The parties agree that they will request this Hon'ble court to dispose of the above O.P.(C) 395/2015 in terms of the above mediation settlement and seek appropriate directions to the Sub Judge, Kochi for full refund of the court fee paid in suits O.S. 218/2012 and O.S. 119/2013 pending there.

This Original Petition is disposed of recording the terms of settlement and the settlement arrived at shall form part of this judgment.

As per Section 69A of the Kerala Court Fees and Suits Valuation Act, when the parties settled the dispute under one of the modes specified in Section 89 of the Code of Civil Procedure, the party is entitled to full refund of the

court fee. In view of the fact that the mediation succeeded and the parties entered into a compromise which is one of the modes specified in Section 89 of the Code of Civil Procedure, the plaintiffs are entitled to refund of the entire court fee.

sb.

P. BHAVADASAN,
JUDGE