

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

OP(C).No. 552 of 2015 (O)

ORDER DTD.29.1.2015 IN IA.NO.83/2015 IN OS 111/2011 OF SUB COURT,
PATHANAMTHITTA

.....

PETITIONER(S):

K.A.SHAJAHAN,
S/O.HASSAN RAWTHER, HILL VIEW,
THONNALLOOR MURI, PANDALAM VILLAGE, ADOOR TALUK,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.S.MUHAMMED HANEEFF

RESPONDENT(S):

1. ALEX VARGHESE,
S/O.K.M.VARGHESE, GARDEN HOUSE,
NJETTOOR MURI, KULANADA VILLAGE, KOZHENCHERRY TALUK,
PATHANAMTHITTA DISTRICT - 689 652.
2. MARIAMMA, W/O.ALEX VARGHESE,
GARDEN HOUSE, NJETTOOR MURI, KULANADA VILLAGE,
KOZHENCHERRY TALUK, PATHANAMTHITTA DISTRICT - 689 652.
3. H.D.F.C. BANK,
PANDALAM BRANCH, REP.BY ITS MANAGER,
PANDALAM P.O., PATHANAMTHITTA - 689 651.

R1 BY ADVS. SRI.SEBASTIAN PHILIP
SRI.R.ANIL

R3 BY ADVS. SRI.T.RAJESH, SC

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 02-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

OP(C).No. 552 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 - A TRUE COPY OF THE PLAINT IN OS NO.111/2011 ON THE FILE OF THE
HON'BLE SUBORDINATE JUDGE, PATHANAMTHITTA.

EXT.P2 - A TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE
3RD DEFENDANT IN EXT.P1 SUIT.

EXT.P3 - A TRUE COPY OF THE I.A.NO.957/2013 IN OS NO.111/2011 ON THE FILE OF
THE HON'BLE SUBORDINATE JUDGE, PATHANAMTHITTA.

EXT.P4 - A TRUE COPY OF THE I.A.NO.83/2014 IN OS NO.111/2011 ON THE FILE OF THE
HON'BLE SUBORDINATE JUDGE, PATHANAMTHITTA.

EXT.P5 - A TRUE COPY OF THE ORDER DT.29-01-2015 IN I.A.NO.83/2014 IN
O.S. NO.111/2011 ON THE FILE OF THE HON'BLE SUBORDINATE JUDGE,
PATHANAMTHITTA.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B.KEMAL PASHA, J.

.....
O.P.(C) No.552 of 2015
.....

Dated this the 2nd day of June, 2015

J U D G M E N T

An amendment has been sought for by the petitioner through IA 83/2015 in OS 111/2011. It is a suit for money. The specific case of the plaintiff in the suit is that the transaction had taken place during December, 1997. Documents were called for from the Bank to prove the transaction. It was proved that during 1997 no such transaction had taken place through Bank. Then the petitioner went on for tracing out the Bank records of 1996. Even though the averment was that an amount of Rs.1,00,000/- and another amount of Rs.50,000/- were deposited at the Bank, such remittances could not be traced out. What was traced out is remittance of an amount of Rs.75,000/- by somebody in the accounts on 09.12.1996. Consequently, amendments were sought for.

2. It seems that the court below has considered the matter and passed Ext.P5 order thereby dismissing the IA. The said order is under challenge in this OP.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

4. The aforesaid facts are self-speaking. In fact, the attempt of the plaintiff through the amendment application is nothing but an attempt to contradict himself. If the amendment is allowed all his earlier pleadings would go. Further, this is a suit in which evidence is complete. When the matter stood for final hearing, the present amendment application was filed. I do not find any illegality, irregularity or jurisdictional error in Ext.P5 order passed by the court below and the same does not warrant interference. Hence, this petition is only to be dismissed, and I do so.

In the result, this Original Petition is dismissed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

// true copy //

P.S. to Judge.