

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

OP(C).No. 610 of 2015 (O)

(O.S.156/2011 OF SUB COURT, OTTAPALAM)

PETITIONER:

REJEEB @ MUTHU MOHAMMED
S/O. VALIPARAMBIL MOIDEEN,
EZHUMANGAD DESOM, THIRUMITTAKODE AMSOM,
OTTAPALAM TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENT:

SIBI SIMON, S/O. SIMON,
AGED 40 YEARS, CHEERANS VEEDU,
NETHIRIMANGALAM AMSOM, DESOM,
OTTAPALAM TALUK, PALAKKAD DISTRICT - 678 001.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.(C) 610/2015

A P P E N D I X

PETITIONER'S EXHIBITS:

- EXT. P1 : COPY OF PLAINT NUMBERED AS O.S.156/2011 OF SUB COURT, OTTAPALAM.
- EXT. P2 : COPY OF WRITTEN STATEMENT FILED BY PETITIONER BEFORE SUB COURT, OTTAPALAM.
- EXT. P3 : COPY OF PETITION AND AFFIDAVIT IN I.A.1460/14 IN O.S.156/2011.
- EXT. P4 : COPY OF ORDER DTD.29.1.15 IN I.A.1460/2014 IN O.S.156/2011 PASSED BY SUB COURT, OTTAPALAM.

RESPONDENT'S EXHIBITS: NIL.

// True Copy //

P.A. To Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.610 OF 2015

Dated this the 5th day of March, 2015.

J U D G M E N T

The petitioner initiated criminal proceedings against the respondent which, unfortunately for the petitioner, ended in discharge which was challenged in appeal and the appeal was dismissed for default.

2. It is pointed out by the learned counsel for the petitioner that the petitioner challenged the order dismissing the appeal in revision and it is pending before this Court. Meanwhile, the respondent instituted a suit for malicious prosecution and that is nearing trial. The petitioner moved an application under Section 10 of the Code of Civil Procedure which was dismissed by the court below. The petitioner points out that before the Civil Revision Petition is heard, if the suit is tried, it will cause irreparable loss and injury to him.

It is extremely difficult to hold that a petition under

Section 10 of the Code of Civil Procedure is maintainable. The court below was right in dismissing the same.

Leaving open the right of the petitioner to move appropriate forum for necessary reliefs, this original petition is disposed of. The trial of the suit shall stand deferred by ten days.

Sd/-

P.BHAVADASAN
JUDGE

smp