

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN

TUESDAY, THE 20TH DAY OF AUGUST 2013/29TH SRAVANA, 1935

OP(C).No. 2332 of 2013 (O)

PETITIONER:

**DR. N.MADHU, AGED 51 YEARS,
MEDICAL PRACTITIONER, S/O.DR.S.NANAPPAN,
NOW RESIDING AT CHAITHRAM, N.PARAVUR,
ERNAKULAM DISTRICT.**

BY ADV. SRI.K.S.RAJEEV (ALUVA).

RESPONDENTS:

- 1. P.RAVEENDRANATH, AGED 72,
S/O.C.KUMARA MENON, RESIDING AT ASWINI,
POTTAN THERUVIL, PARAVOOTHARA P.O., KOCHI - 683 513.**
- 2. RAJI MENON, W/O.P.RAVEENDRANATH, AGED 72,
RESIDING AT ASWINI, POTTAN THERUVIL, PARAVOOTHARA MURI,
PARAVOOR VILLAGE, N. PARAVOOR.P.O., KOCHI - 683 513.**

BY ADV. SRI.R.AZAD BABU.

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON
20-08-2013, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Prv.

O.P.(C).NO.2332/2013-O:

J U D G M E N T

None appears for the petitioner. There was also no representation on behalf of the learned counsel for the petitioner, when the original petition was called on for hearing today. Dismissed for default.

20/08/2013.

SD/- P.N.RAVINDRAN, JUDGE.

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PA. TO JUDGE.

Prv.

B. KEMAL PASHA, J.

.....
O.P.(C) No.2332 of 2013
.....

Dated this the 23rd day of July, 2015

J U D G M E N T

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The defendant in OS No.222/2011 of the court below, who is dissatisfied with Ext.P3 order, has come up by challenging the said order. Through the said order, it seems that, the court below has permitted the plaintiff to produce certified copies of the plaint and written statement in OS No.488/2010, in OS No.222/2011. According to the petitioner, the said documents were marked even without further examining PW2. According to the petitioner, no opportunity was given to the petitioner to subject PW2 to cross examination on the basis of the said plaint and written statement.

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

3. The learned counsel for the respondents has

pointed out that the judgment in OS No.488/2010 was already marked and PW2 was subjected to cross examination by the petitioner. Thereafter, the certified copies of the plaint and written statement were procured and the same were also marked. It seems that the court below has marked the said documents without giving an opportunity to the petitioner to challenge those documents through further cross examination of PW2. Therefore, this Court is of the view that an opportunity has to be granted to the petitioner to subject PW2 to further cross examination. The court below shall recall PW2 and permit the petitioner to subject him to further cross examination.

In the result, this O.P.(Civil) is allowed in part and the petitioner is given an opportunity to further cross examination of PW2. The court below shall recall PW2 for enabling the petitioner to subject him to further cross examination. Of course, the court below will consider the relevancy and admissibility of those documents, which were

subsequently introduced. It has been brought to the notice of this Court that the suit, along with two other suits, are being jointly tried. The court below shall see that the trial of the suit also should go along with the other suits.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/23/07

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PA to Judge