

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

OP(C).No. 794 of 2015 (O)

IA 142/2014 IN OS. 352/2012 OF SUB COURT, KARUNAGAPPALLY

PETITIONER/DEFENDANT:-:

**SINI, AGED 35 YEARS, S/O.SANOJ,
KOLABHAGATH VEETIL, KARUNAGAPPALY,
KULASEKHARAPURAM.**

BY ADV. SRI.M.R.SASITH

RESPONDENT/PLAINTIFF:-:

**T.N.OMANA,
SANTHOSH VIHAR, PRAYAR THEKKUM MURI,
CLAPPANA VILLAGE - 690 001.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 24-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

OP(C).No. 794 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE IA NO.1421/2014 IN OS NO.325/2012 OF SUB COURT KARUNAGAPPALLY.

EXHIBIT P2: TRUE COPY OF OBJECTION FILED BY THE RESPONDENT.

EXHIBIT P3: TRUE COPY OF MEDICAL CERTIFICATE ISSUED BY THE DOCTOR TO THE PETITIONER COMMISSION REPORT DATED 25.02.2014.

EXHIBIT P4: TRUE COPY OF ORDER PASSED BY THE HON'BLE SUB COURT, KARUNAGAPPALLY IN IA NO.1421/2014 IN OS NO.325/2012.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P. BHAVADASAN, J.

O.P.(C). No. 794 of 2015

Dated this the 24th day of March, 2015.

JUDGMENT

By order dated 20.12.2014 the petition filed by the petitioner to set aside the ex parte order was allowed on the following terms:

- "1. Defendant/petitioner shall deposit a total cost of Rs.25,000/- before next posting date, failing which this petition shall stand dismissed.
2. If the cost is so deposited, a portion of the cost will be paid to the advocate commissioner who will be appointed later to record the evidence in the suit, after setting aside the ex parte decree.
3. The balance out of the cost deposited will be adjusted towards the decree debt, if the suit is decreed in future.
4. The balance out of the cost deposited can be withdrawn by the defendant, if the suit is dismissed in future.

2. Since the petitioner did not deposit the amount as directed above, on 14.1.2015 when the matter was taken up finding that the costs has not been deposited, the

petition was dismissed. The result is that the petition to set aside the ex parte decree stands dismissed. Such an order is appealable under Order 43 of the Code of Civil Procedure.

Leaving open the liberty to pursue such remedy as available under law, this Original Petition is closed.

sb.

P. BHAVADASAN,
JUDGE