

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

OP(C).No. 843 of 2015 (O)

(A.S.18/2015 BEFORE THE DISTRICT COURT, KOTTAYAM AND E.P.NO.60/2014
BEFORE THE MUNSIFF'S COURT, CHANANACHERRY)

PETITIONER:

SAJAN K.G., AGED 47 YEARS
S/O.GOVINDAN.P.R, OTHENACHEDA HOUSE, KURICHY VILLAGE
CHANGANACHERRY TALUK, KOTTAYAM.

BY ADVS.SRI.R.MURALEEKRISHNAN
SMT.T.M.RESHMY

RESPONDENT:

SHIVARAJAN, AGED 58 YEARS
S/O.PADMANABHAN, THALAYATTUMPALLIL HOUSE
KURICHY VILLAGE, CHANGANACHERRY TALUL
KOTTAYAM-686005.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 25-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C) .No. 843 of 2015 (O)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1 TRUE COPY OF THE JUDGMENT DATED 20-6-2014 IN O.S.10/2012 ON
THE FILE OF MUNSIFF COURT, CHANGANASSERY

EXT.P2 TRUE COPY OF THE APPEAL MEMORANDUM IN AS 18/2015 OF DISTRICT
COURT, KOTTAYAM

EXT.P3 A TRUE COPY OF THE DELAY PETITION VIDE I.A.109/2015 IN AS
18/2015 OF DISTRICT COURT, KOTTAYAM

EXT.P4 A TRUE COPY OF THE OBJECTION IN E.P.60/2014 ON THE FILE OF
MUNSIFF COURT, CHANGANACHERRY

EXT.P5 A TRUE COPY OF THE PETITION VIDE E.A.16/2015 IN E.P.60/2014
OF MUNSIFF COURT, CHANGANACHERRY.

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

Scl.

P.BHAVADASAN, J.

O.P.(C) No.843 of 2015

Dated this the 25th day of March, 2015.

JUDGMENT

This original petition is filed under Article 227 of the Constitution of India, seeking the following directions:

(a) Issue appropriate order or direction, directing the District Court, Kottayam to consider and pass final orders on Exhibit P3 petition as expeditiously as possible.

(b) Issue appropriate order or direction, directing the Munsiff Court, Changanassery to keep in abeyance the proceedings in E.P.No.60/2014 in O.S.No.10/12 pending consideration of Exhibit P3."

2. The petitioner is the plaintiff in O.S.No.10 of 2012 of Munsiff's Court, Changanacherry, which was filed for the fixation of boundary, permanent prohibitory injunction and mandatory injunction. The respondent has entered appearance and filed a counter claim. The court below dismissed the suit and allowed the counter claim. Thereafter the petitioner preferred an appeal with delay petition which is posted to 31.3.2015. In the meanwhile, the respondent filed execution petition to execute his decree. The petitioner had approached the appellate court and sought for stay for ten

days time that the the delay condonation petition to be heard and disposed of. The court below declined to grant any relief and dismissed the petition and decided to proceed further execution proceedings.

3. The learned counsel for the petitioner points out that unless the delay condonation petition is heard, the petitioner will be put to irreparable loss and injury in the meantime the decree in counter claim is allowed to be executed. Therefore, it is highly just and necessary that the appellate court be passed urgent orders on delay petition.

4. Once the suit is decreed, it cannot be said that the execution of decree may be kept in abeyance till the delay condonation petition heard and disposed of.

This petition is disposed of directing the District Court, Kottayam to take up A.S.No.18/2015 and dispose it of in accordance with law, at any rate, within a period of four months from the date of receipt of a copy of this judgment.

Sd/-
P.BHAVADASAN
JUDGE

Scl.