

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

OP(C).No. 893 of 2015 (O)

I.A. NO. 1293/2015 IN OS 71/2014 OF PRINCIPAL MUNSIF COURT, ALAPPUZHA

PETITIONER :

RAJAPPAN,
AGED 55 YEARS, S/O. KUMARAN
THAMPURAN PARAMB, S.L. PURAM P.O.,
CHERTHALA, ALAPPUZHA.

BY ADV. SRI.P.SHANES METHAR

RESPONDENT :

KARTHIKEYAN
AGED 57 YEARS, S/O. KUMARAN
THEKKEVELIYIL, KANJIKUZHI VILLAGE
MUHAMMA P.O., ALAPPUZHA – 688 026.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 30-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

...2/-

OP(C).No. 893 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE JUDGMENT IN OS NO. 71/2014 ON THE FILE OF
PRINCIPAL MUNSIFF'S COURT, ALAPPUZHA.
- EXT.P2 COPY OF THE PLAINT IN OS NO. 71/2014 ON THE FILE OF PRINCIPAL
MUNSIFF'S COURT, ALAPPUZHA.
- EXT.P3 COPY OF THE PETITION IN E.P. NO. 159/2015 IN OS NO. 71/2014 ON
THE FILE OF PRINCIPAL MUNSIFF'S COURT, ALAPPUZHA.
- EXT.P4 COPY OF THE PETITION AND AFFIDAVIT IN IA NO. 1293/2015 IN OS
NO. 71/2014 ON THE FILE OF PRINCIPAL MUNSIFF'S COURT,
ALAPPUZHA.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

P.BHAVADASAN, J.

O.P.(C) No. 893 of 2015

Dated this the 30th day of March, 2015

J U D G M E N T

In this original petition, the limited prayer is for a direction to keep in abeyance all further proceedings in pursuance to Ext.P3 execution petition till orders are passed in Ext.P4 petition which has been filed by the petitioner to set aside the exparte decree.

2. The petitioner is the defendant in O.S.No. 71/2014 before the Principal Munsiff's Court, Alappuzha which was a suit for eviction and recovery of arrears of rent. The petitioner has got a contention that the subject matter of the suit is covered under Act 2 of 1965 and the suit itself was not maintainable. The petitioner would further say that he was served with no notice and therefore he could not enter appearance and contest the case. He was taken by surprise when he was served with Ext.P3 notice. Then he came to know that an exparte order has been passed against him.

3. He immediately filed Ext.P4 application to set aside the exparte decree. If, in the meanwhile, the petitioner pointed out that, Ext.P3 is executed, it will cause irreparable loss and injury to him. The petitioner therefore prays that there may be a direction to dispose of Ext.P4 petition at the earliest and till then, Ext.P3 may be kept in abeyance.

4. After having heard the learned counsel for the petitioner, it is felt that the request made is reasonable.

This petition is disposed of directing the court below to take up and dispose of Ext.P4 petition as expeditiously as possible, at any rate, before the summer vacation begins and till then, execution of Ext.P3 order shall be kept in abeyance.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge