

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. 895 of 2015 (O)

E.P. NO.137/2014 IN O.S. NO.155/2010 OF MUNSIF COURT, NEYYATTINKARA.

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PETITIONER(S):

1. SHAJA G.S.PANICKER,
S/O.G. SAHADEVA PANICKER, AGED 43 YEARS,
RESIDING AT VAILA PAMPADY, MELARANNOOR,
KARAMANA P.O., THIRUVANANTHAPURAM.
2. JAYASREE, AGED 39 YEARS,
D/O.VILASINI, MANAGER,
RAMAVARMA MEMORIAL PUBLIC SCHOOL,
AYANIMOODU, VEDIVECHAN KOVIL,
BALARAMAPURAM.

BY ADVS.SRI.D.KISHORE,
SMT.MINI GOPINATH.

RESPONDENT(S):

1. SUBHADRA VARMA, W/O.P.A. VARMA,
AGED 72 YEARS, RESIDING AT BHUVANAM,
T.C.19/1836/3, KESAVAN NAIR ROAD,
ANCHAMADA, POOJAPPURA,
THIRUVANANTHAPURAM-695 001.
2. AMBIKA VARMA, AGED 47 YEARS,
D/O.P.A. VARMA, RESIDING AT BHUVANAM,
T.C.19/1836/3, KESAVAN NAIR ROAD,
ANCHAMADA, POOJAPPURA,
THIRUVANANTHAPURAM-695 001.
3. VINOD VARMA, AGED 52 YEARS,
S/O.P.A. VARMA, RESIDING AT BHUVANAM,
T.C.19/1836/3, KESAVAN NAIR ROAD,
ANCHAMADA, POOJAPPURA,
THIRUVANANTHAPURAM-695 001.

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**4. ULLAS VARMA, AGED 46 YEARS,
S/O.P.A. VARMA, RESIDING AT BHUVANAM,
T.C.19/1836/3, KESAVAN NAIR ROAD,
ANCHAMADA, POOJAPPURA,
THIRUVANANTHAPURAM-695 001.**

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

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE PLAINT IN O.S. NO.155/2010 OF MUNSIFF COURT, NEYYATTINKARA.
- EXT.P2 COPY OF THE WRITTEN STATEMENT FILED BY THE DEFENDANTS 1 AND 2 ALONG WITH THE COUNTER CLAIM IN O.S. NO.155/2010 OF MUNSIFF COURT, NEYYATTINKARA.
- EXT.P3 COPY OF THE REPLICATION FILED BY THE PETITIONERS IN O.S. NO.155/2010 OF MUNSIFF COURT, NEYYATTINKARA.
- EXT.P4 COPY OF THE JUDGMENT DATED 06/02/2014 IN OS. NO.155/2010 OF MUNSIFF COURT, NEYYATTINKARA.
- EXT.P5 COPY OF THE MEMORANDUM OF APPEAL IN A.S. NO.75/2014 OF SUB COURT, NEYYATTINKARA.
- EXT.P5A COPY OF THE AFFIDAVIT AND PETITION IN I.A. NO.760/2014 IN AS. NO.75/2014 OF SUB COURT, NEYYATTINKARA.
- EXT.P6 COPY OF THE MEMORANDUM OF EXECUTION PETITION NO.137/2014 IN O.S. NO.155/2010 OF MUNSIFF COURT, NEYYATTINKARA.
- EXT.P7 COPY OF THE OBJECTION FILED BY THE PETITIONERS IN E.P. NO.137/2014 IN O.S. NO.155/2010 OF MUNSIFF COURT, NEYYATTINKARA.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

P.BHAVADASAN, J.

O.P.(C) No. 895 of 2015

Dated this the 30th day of March, 2015

J U D G M E N T

The limited prayer in this original petition is for a direction to the Additional Munsiff Court, Neyyattinkara to take up Ext.P5(a) and dispose it of as expeditiously as possible and till then, to keep the execution of the decree in the counter claim in abeyance.

2. The suit filed by the petitioner was dismissed and he suffered a decree in the counter claim. The petitioner points out that he has filed an appeal as early as on 31.07.2014 and since it was filed out of time, there was a petition to condone the delay of seven days in filing the appeal. Till today, the delay condonation petition has not been considered and in the meanwhile, execution of the counter claim decree is being proceeded with. He points out that if the decree is executed, he will be put to irreparable loss and injury. Therefore he prays that there may be a

direction to the lower appellate court to take up the delay condonation petition i.e.Ext.P5(a) and dispose it of on merits, as expeditiously as possible and till then, to keep the execution of the decree in the counter claim in abeyance.

3. After having heard the learned counsel for the petitioner, it is felt that the prayer made by the petitioner is just and reasonable.

This petition is disposed of directing the Additional Munsiff Court, Neyyattinkara to take up I.A.No. 760/2014 i.e. Ext.P5(a) in A.S.No. 75/2014 and dispose it of as expeditiously as possible, at any rate, before the summer vacation begins. Till then, the execution of the decree in the counter claim shall be kept in abeyance.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge