

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

OP(C).No. 902 of 2015 (O)

(OS 226/2014 of SUB COURT, ERNAKULAM)

PETITIONER/PLAINTIFF:

M/S.UNITAC BUILDERS & DEVELOPERS
HAVING ITS OFFICE AT D.No.32/8-B4,
SURYA GAYATHRI, PUTHIYA ROAD,
NEW JUNCTION, NH BYE PASS, COCHIN,
REPRESENTED BY ITS PROPRIETOR MR.SANTHOSH EAPEN,
AGED 43 YEARS, S/O.C.C. EAPEN, CHERUVATHOOR HOUSE,
APPLOLO ROAD, BYE PASS, THAMMANAM P.O.,
COCHIN, PIN - 682 032.

BY ADVS.SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH

RESPONDENTS/DEFENDANTS:

1. P.I. THAMBY, AGED 59 YEARS,
S/O. LATE IKKORAN, PAVAKKULATH HOUSE,
AZAD ROAD, KALOOR DESOM,
ELAMKULAM VILLAGE, KALOOR P.O.,
PIN - 682 017.
2. P.R. BABU, AGED 70 YEARS,
S/O. K.K. VASU, KANNEMPILLIL HOUSE,
MISSION SCHOOL ROAD, THRIPIUNITHURA P.O.,
ERNAKULAM, PIN - 682 301.

BY ADV. SRIL ANIL S RAJ.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.(C) 902/2015

A P P E N D I X

PETITIONER'S EXHIBITS:

- EXT. P1 : COPY OF PLAINT DTD.3.9.14 FILED BY PETITIONER OF
SUB COURT, ERNAKULAM.
- EXT. P2 : COPY OF MEMORANDUM OF AGREEMENT U/S.89 R/W
RULE 24 OF CPC (ALTERNATIVE DISPUTE RESOLUTION)
RULES 2008 SIGNED BY THE PETITIONER AND THE
FIRST RESPONDENT).

RESPONDENT'S EXHIBITS: NIL.

// True copy //

P.A. To Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.902 OF 2015

Dated this the 31st day of March, 2015.

J U D G M E N T

Indeed strange are the ways of court. A litigation which would have been put an end to earlier is even now being continued and the parties are driven to this Court seeking relief.

2. In the suit namely, O.S.No.226/2014, parties went for mediation and they entered in to a compromise and the terms of compromise was forwarded to the court below for passing a decree. For reasons best known to the court below, court below refused to accept the mediation report and did not pass a decree thereby keeping the litigation alive. That brought the plaintiff before this Court.

3. After having gone through the mediation report, this Court feels that there is no justification for declining to grant a decree in terms of the mediation report and there is nothing illegal or irregular in the terms entered into between the parties as per the agreement.

In the result, this original petition is allowed and a decree is passed in the following terms:

- i) Parties agreed that the defendants will pay Rs.75,00,000/- (seventy five lakhs) to the plaintiff on or before 31/12/14 in full and final settlement of the plaint claim.
- ii) If the amount of Rs.75,00,000/- (seventy five lakhs) is not paid before 31/12/14, defendants shall be liable to pay Rs.75,00,000/- with 6% interest from 23/10/14 till date of payment.
- iii) If the amount of Rs.75,00,000/- (seventy five lakhs) with 6% interest from 23-10-14 till date of payment is not made before 31-3-15, plaintiff shall be entitled to put the decree in execution for recovering the amount.
- iv) Plaintiff shall be entitled to a charge for Rs.75,00,000/- (seventy five lakhs) over 16.422 cents of land in survey No.207/2 of Elamkulam village, Kanayannur Taluk, till the amount of Rs.75,00,000/- (seventy five lakhs) with or without interest, as the case may be, is paid.
- v) If the defendants pay any amount to the plaintiff before 31/12/14, the defendants need pay

interest @ 6% interest only on the balance amount.

- vi) The court fee already remitted by the plaintiff may be returned to him.
- vii) The plaintiff is aware of the fact that the 16.422 cents of land with building therein mentioned above is indebted to National Insurance Company Ltd.
- viii) The plaintiff and defendants have no further claim each other.

The mediation settlement shall form part of the decree.

Sd/-

**P.BHAVADASAN
JUDGE**

smp