

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

OP(C).No. 2715 of 2013 (O)

AGAINST THE ORDER IN IA NO.6910/2012 IN OS NO.184/2010 OF PRINCIPAL SUB COURT,
THRISSUR

PETITIONER(S)/APPLICANT/DEFENDANT:

ROSILY
W/O. UNNIPPILLY LATE FRANCIS, KURUDY DESOM
KILANNUR VILLAGE, THRISSUR DISTRICT.

BY ADVS.SRI.SANTHOSH P.PODUVAL
SMT.R.RAJITHA

RESPONDENT(S)/RESPONDENT/PLAINTIFF:

THOMAS
S/O. MAROKKY OUSEPH, PONGANAMKADU DESOM
KURICHIKKARA VILLAGE, THRISSUR TALUK
THRISSUR DISTRICT - 680 001.

BY ADV. SRI.C.A.ANOOP

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 26-06-2015, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 2715 of 2013 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1-TRUE COPY OF THE PLAINT IN O.S 184/2010 ON THE FILE OF THE PRINCIPAL SUB COURT, THRISSUR.

EXHIBIT-P2-TRUE COPY OF THE WRITTEN STATEMENT IN O.S 184/2010 BEFORE THE PRINCIPAL SUB COURT, THRISSUR.

EXHIBIT-P3-TRUE COPY OF THE I.A 6910/2012 IN O.S 184/2010 BEFORE THE PRINCIPAL SUB COURT, THRISSUR.

EXHIBIT-P4-TRUE COPY OF THE I.A 6911/2012 IN O.S 184/2010 BEFORE THE PRINCIPAL SUB COURT, THRISSUR.

EXHIBIT-P5-TRUE COPY OF THE COUNTER FILED BY THE RESPONDENT IN I.A 6910/2012 IN O.S 184/2010 BEFORE THE PRINCIPAL SUB COURT, THRISSUR.

EXHIBIT-P6-TRUE COPY OF THE ORDER DATED 06/04/2013 IN I.A 6910/2012 IN O.S 184/2010 ON THE FILE OF THE PRINCIPAL SUB COURT, THRISSUR.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

A.HARIPRASAD, J.

O.P.(C) No.2715 of 2013

Dated this the 26th day of June, 2015

JUDGMENT

Ext.P6 order passed by the learned Sub Judge on an application filed under Rule 120 of the Civil Rules of Practice (in short, “CRP”) is under challenge. The suit is one for realisation of money filed by the respondent against the petitioner. Petitioner/defendant raised a contention that the entire claim was settled by her through a mediation in the Police Station and documents were executed by the parties from the Police Station evidencing the full satisfaction of the claim of the respondent/plaintiff. On this reasoning, petitioner filed Ext.P4 petition before the court below, purported to be under Rule 120 of CRP. The court below as per Ext.P6 order dismissed the petition for summoning documents from the Police Station for two reasons. First reason stated by the court below is that the petition is not in the form prescribed under Rule 120 CRP. Secondly, a certified copy of the same document had been produced by the plaintiff and that could serve the purpose.

2. Heard the learned counsel for the petitioner and the

respondent.

3. It is true that Ext.P4 application is not in the proper form. The Rule insists that it must be by a verified petition. Further, it must specifically state in the petition as to whether a certified copy of the document sought to be produced could be obtained. If the certified copy would not serve the purpose, it must be specified in the petition as to why production of the original is to be insisted. None of these matters have been stated in the petition.

4. Learned counsel for the respondent contended that certified copy of the documents produced from their side will serve the purpose. In answer to this contention, learned counsel for the petitioner submitted that subsequent to the execution of agreement between the parties from the Police Station, the register, on which the parties had signed, had been manipulated by making some interpolations. In order to prove that, the original document is necessary. The records placed before me do not show whether the certified copy is a photocopy of the original register. In the absence of any factual basis, I am unable to make any direction as to whether the original should be brought before the trial court or not. However, the court below shall consider those matters, in case the petitioner files a proper petition for that purpose. Considering the fact that

the suit is of the year 2010, I direct the court below to take all pre-trial steps as expeditiously as possible and dispose of the case on merits within a period of six months from the date of receipt of a copy of this judgment.

A. HARIPRASAD, JUDGE.

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