

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 21ST DAY OF APRIL 2015/1ST VAISAKHA, 1937

OP(C).No. 1107 of 2015 (O)

(ORDER IN I.A.NO.110/2015 IN OS 22/2015 OF PRINCIPAL MUNSIF COURT,
NEDUMANGAD)

PETITIONER:

NIYASUDHEEN, AGED 24 YEARS
S/O. NOUSHAD M.R., PROPRIETOR, TILECIEL
PAMMATH TOWERS, AZHIKODE, CHEKKAKONAM P.O.
THIRUVANANTHAPURAM.

BY ADV. SRI.K.B.PRADEEP

RESPONDENTS:

1. SUMERU TRADE LINKS PVT. LTD.
GANESH MERIDIAN, SG HIGHWAY, OPP.GUJARATH HIGH COURT
AHMEDABAD-380 060
REPRESENTED BY ITS DIRECTOR TEJAS GANDHI.
2. TEJAS GANDHI
DIRECTOR, SUMERU TRADE LINKS PVT.LTD., GANESH MERIDIAN
SG HIGHWAY, OPP. GUJARATH HIGH COURT, AHMEDABAD
PIN-380 060.
3. CENTRAL BANK OF INDIA
NEDUMANGAD BRANCH, NEDUMANGAD P.O., THIRUVANANTHAPURAM
REPRESENTED BY ITS BR.MANAGER- 695 001.

R BY SMT.K.S.SANTHI, SC, CENTRAL BANK

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
21-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C) .No. 1107 of 2015 (O)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 : COPY OF THE PLAINT IN OS NO.22/2015 IN THE FILE OF MUNSIFF'S COURT, NEDUMANGAD, THIRUVANANTHAPURAM.

P2 : COPY OF THE IA NO.110/2015 IN OS NO.22/2015 IN THE FILE OF MUNSIFF'S COURT, NEDUMANGAD, THIRUVANANTHAPURAM.

P3 : COPY OF THE INTERIM INJUNCTION DTD.7.1.2015 GRANTED IN IA NO.110/2015.

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

Scl.

K. HARILAL, J.

O.P.(C) No.1107 of 2015

Dated this the 21st day of April, 2015.

JUDGMENT

The petitioner is the plaintiff in O.S.No.22 of 2015 on the files of the Munsiff's Court, Nedumangad. The said suit was filed for a decree of permanent prohibitory injunction simplicitor. Along with the suit, the petitioner has filed Ext.P2 application for a temporary injunction and the same was granted as ex parte vide Ext.P3. Subsequently, the defendants entered appearance. But they did not file a counter affidavit controverting allegations in Ext. P2. However, the court below erroneously dismissed Ext.P2 application on 9.4.2015 as noted in the 'A' diary. Though the petitioner had applied for certified copy of the order passed in Ext.P2 application, on 16.4.2015 itself, the same was not granted. Though, the petitioner intended to challenge the said order in appeal, under Rule 1 Order 43 of the C.P.C, he could not do so, as the order dismissing Ext.P2 application is yet to be issued. Unless the

impugned order passed on Ext.P2 application is challenged, the petitioner will be put to irreparable injury and great loss. Hence this Original Petition (Civil) is filed with a prayer seeking a direction to the court below to issue certified/carbon copy of the order dated 9.4.2015 dismissing Ext.P2 application and also to suspend the operation of the order dated 9.4.2015 dismissing Ext.P2 application in O.S.No.22 of 2015.

2. The learned counsel for the petitioner advanced the arguments highlighting the grievance which was caused by the non-issuance of the certified copy of the impugned order within the time. Further the learned counsel submits that, now it is learn that stamp has been called for the issuance of the certified copy. The learned counsel fairly submits that the petitioner does not intend to press relief No.2, in the light of the call of stamp. But the learned counsel further submits that unless operation of the order dismissing Ext.P2 application is suspended for a short time, within which proper Appeal can be filed, the petitioner will be put to irreparable injury and

great loss.

3. Heard the learned counsel for the petitioner and the learned counsel for the third respondent also.

4. Going by the averments in the petition and submissions at Bar, it is seen that an ad-interim order had been passed in Ext.P2 application and the same was in force till 9.4.2015, the date of dismissal of the said application. Though the petitioner had applied for certified copy of the order passed in Ext.P2, the same has not been issued within the time, enabling the petitioner to challenge the impugned order. So I cannot find fault with the petitioner in not filing the Appeal. Having regard to the fact that the petitioner was enjoying the benefit of ad-interim order, unless the order passed in Ext.P2 application is suspended, the petitioner will be put to irreparable injury.

In the above view of the matter, the operation of order dated 9.4.2015 dismissing Ext.P2 application will stand suspended for a period of two weeks from today enabling the

petitioner to challenge the impugned order. Needless to say, the first relief will stand open.

The original petition is disposed of.

**Sd/-
K. HARILAL
JUDGE**

Scl.