

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

RP.No. 1194 of 2007 (D)

JUDGMENT DATED 28-09-2007 IN WP(C).NO.28966/2007.

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REVIEW PETITIONER/RESPONDENTS:

1. DAYA K.PANICKER,
D/O.BHARATHI OMANA AMMA,
"MAHALAKSHMI", KALOOR, COCHIN-17.
2. DIETY OF KOZHISSEERIL SREE MAHAVISHNU TEMPLE,
KARUNAGAPPALLY, REPRESENTED BY ITS TRUSTEE
1ST PLAINTIFF DAYA K.PANICKER.

BY ADV. SMT.PRABHA R.MENON.

RESPONDENT/PETITIONER:

V. PEETHAMBARAN, S/O.VELAYUDHAN,
ANIL NIVAS, MUTHUKULAM, THEKKU P.O.,
ALAPPUZHA DISTRICT.

BY ADVS. SRI.V.PHILIP MATHEW,
SRI.JEPH JOSEPH.

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD
ON 13-02-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

rs.

P. BHAVADASAN, J.

R.P. No. 1194 of 2007 in
W.P.(C). No. 28966 of 2007

Dated this the 13th day of February, 2015.

ORDER

This review petition has been pending here for eight years on a non-contentious issue. In a suit the plaintiff was examined as P.W.1 and according to the defendants in the suit their counsel was taken ill and they could not effectively cross-examine P.W.1. The evidence was closed. It is also stated that plaintiff's evidence was closed later. The defendants approached this Court praying for an opportunity to cross-examine P.W.1 pointing out the circumstances under which they could not effectively cross examine the witness. This Court by judgment dated 28.9.2007 disposed of the Original Petition by directing the petitioners in the Original Petition to recall the witness and commence the examination from where it has ended.

2. Complaining that notice was not issued in the Original Petition and that several facts are concealed from the notice of this Court, the review petition was filed.

3. It is difficult to understand as to how the plaintiff is affected by the order passed by this Court. Even assuming that it was without notice to her, there is nothing which prejudiced her rights. One should remember that the defendants have not adduced their evidence. They will have certainly an opportunity to show P.W.1 as a witness in their witness list.

However, in the light of the fact that no notice was issued to the petitioner earlier, this review petition is allowed and the impugned order is set aside.

P. BHAVADASAN,
JUDGE

sb.