

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

OP(C).No. 3356 of 2013 (O)

AGAINST THE ORDER/JUDGMENT IN OS 13/2012 of MUNSIFF'S
COURT, THODUPUZHA

PETITIONER:

JOSE MICHAEL,
S/O.MICHAEL, KUTTIKATTIL HOUSE, EDAPPILLY KARA,
MUTTOM VILLAGE, THODUPUZHA TALUK, IDUKKI DISTRICT.

BY ADVS.SRI.MATHEW JOHN (K)
SRI.DOMSON J.VATTAKUZH

RESPONDENTS:

1. THOMAS JOSEPH,
S/O.JOSEPH, OONNUPALATHUNKA HOUSE, EDAPPILLY KARA,
MUTTOM VILLAGE, THODUPUZHA TALUK-685 584.

2. SHYMON JACOB,
S/O.JACOB, INCHANATTU HOUSE, EDAPPILLY KARA,
MUTTOM VILLAGE, THODUPUZHA TALUK-685 584.

R1,R2 BY ADV. SRI.JOHN K.GEORGE

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD
ON 21-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP(C) .No. 3356 of 2013 (O)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT-P1: COPY OF THE PLAINT IN O.S.NO.13 OF 2012
FILED BY THE RESPONDENTS DATED 17.1.2012.

EXHIBIT-P2: COPY OF THE WRITTEN STATEMENT FILED BY THE
PETITIONER DATED 7.6.2012 IN O.S.NO.13 OF 2012.

EXHIBIT-P3: COPY OF THE COMMISSIONER'S REPORT AND ROUGH
SKETCH DATED 20.1.2012.

EXHIBIT-P4: COPY OF I.A.NO.813 OF 2013 FILED BY THE
PETITIONER DATED 20.5.2013.

EXHIBIT-P5: COPY OF THE ORDER DATED 18.7.2013 IN
I.A.NO.813 OF 2013 IN O.S.NO.13 OF 2012.

EXHIBIT-P6: COPY OF THE I.A.NO.1421 OF 2013 FILED BY THE
PETITIONER DATED 23.8.2013.

EXHIBIT-P7: COPY OF THE ORDER DATED 23.8.2013 IN
I.A.NO.1421 OF 2013 IN O.S.NO.13 OF 2012.

RESPONDENTS' EXHIBITS :

NIL

// True Copy //

P.A. To Judge

B.KEMAL PASHA, J.

=====

O.P.(C). No.3356 of 2013

=====

Dated this the 21st day of May, 2015

J U D G M E N T

Suit was decreed exparte. Subsequently, an application seeking to set aside the exparte decree was filed. The application was allowed on terms and the petitioner herein was ordered to pay an amount of ₹750/- as costs within two weeks. The same was not complied with. At the same time, an application seeking enlargement of time for payment of cost was seen filed. As it was a conditional order, the court below dismissed the I.A. through Exhibit P7 order.

2. Heard both sides.

3. On hearing both sides, this court is of the view that this Original Petition (Civil) can be allowed on terms.

In the result, this Original Petition (Civil) is allowed and consequently, Exhibit P7 order is set aside and I.A.No.813 of 2013 in O.S.No.13 of 2012 shall stand allowed on condition that the petitioner pays an amount of ₹3,000/- as cost to the learned counsel for the respondents within 15 days from today. If such cost is not paid within the said period, this Original Petition (Civil) will stand dismissed.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/21/5/15

An amount of ₹3,000/- (Rupees Three thousand only) has been paid as costs by the petitioner to the learned counsel for the respondents in compliance with the judgment dated 21/05/2015 in O.P(C) No.3356/2013.

Sd/-
Registrar (Judicial)