

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE B.KEMAL PASHA

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

OP (C).No.1340 of 2015 (O)

O.S.NO.405/2013 OF SUB COURT,ERNAKULAM.

..

PETITIONER'S(DEFENDANTS 4 & 6):

- 1. SMT.SHINY JOLLY,W/O.JOLLY XAVIER,AGED 43 YEARS,
NRI,EMPLOYED IN U.S.A WITH ADDRESS AT 3979 THOMAS DR,
HASTINGS,MN55033,U.S.A HAVING PERMANENT ADDRESS
AT MATHILICHERRIL HOUSE,LISIE HOSPITAL ROAD,
ERNAKULAM,KOCHI-18,REPRESENTED BY HER
POWER HOLDER BINU THOMAS,S/O.THOMAS XAVIER,
AGED 45 YEARS,RESIDING AT AMTHILICHERRIL HOUSE,
LISSY HOSPITAL ROAD,ERNAKULAM-682018.**
- 2. SRI.JOLLY,S/O.XAVIER,AGED 51 YEARS,NRI,
RESIDING IN U.S.A WITH ADDRESS AT 3979 THOMAS DR,
HASTINGS,MN55033,U.S.A. HAVING PERMANENT ADDRESS
AT MATHILICHERRIL HOUSE, LISIE HOSPITAL ROAD,
ERNAKULAM,KOCHI-18,REPRESENTED BY HIS
POWER HOLDER BINU THOMAS,S/O.THOMAS XAVIER,
AGED 45 YEARS,RESIDING AT MATHILICHERRIL HOUSE,
LISSY HOSPITAL ROAD,ERNAKULAM-682018.**

BY ADV.SRI.SREELAL N.WARRIER

RESPONDENT(PLAINTIFFS AND OTHER DEFENDANTS):

**SRI.BABU XAVIER,AGED 58 YEARS,S/O.LATE P.T.XAVIER,
RESIDING AT 38,MAJESTIC TOWERS,101,ELDAMS ROAD,
CHENNAI-600006.**

**BY SRI.S.SREEKUMAR (SENIOR ADVOCATE)
SRI.SAIGI JACOB PALLATTY.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 12-06-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

pk

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF THE PLAINT IN O.S. NO.405 OF 2013 AND IN THE COURT OF THE PRINCIPAL SUB JUDGE,ERNAKULAM.

EXT.P2:TRUE COPY OF THE PLAINT IN O.S. NO.471/2013 IN THE COURT OF THE PRINCIPAL SUB JUDGE,ERNAKULAM.

EXT.P3:TRUE COPY OF I.A. NO.I.A.1761/2015 IN O.S. NO.405/2013 AND IN THE COURT OF THE PRINCIPAL SUB JUDGE,ERNAKULAM.

EXT.P4:TRUE COPY OF I.A NO.1760/2015 IN O.S NO.471/2013 IN THE COURT OF THE PRINCIPAL SUB JUDGE, ERNAKULAM.

EXT.P5:TRUE PRINT OUT OF THE TEXT OF WHICH AS PUBLISHED IN THE PUBLIC DOMAIN OF THE E-COURTS SERVICES IN RESPECT OF I.A NO.1761/2015 IN O.S NO.405/2013 AND IN THE COURT OF THE PRINCIPAL SUB JUDGE,ERNAKULAM.

EXT.P6:TRUE PRINT OUT OF THE TEXT OF WHICH AS PUBLISHED IN THE PUBLIC DOMAIN OF THE E-COURTS SERVICES IN RESPECT OF I.A NO.1760/2015 IN O.S NO.471/2013 IN THE COURT OF THE PRINCIPAL SUB JUDGE,ERNAKULAM.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

B.KEMAL PASHA, J.

.....
O.P.(C) No. 1340 of 2015
.....

Dated this the 12th day of June, 2015

J U D G M E N T

The defendants in O.S.No.405 of 2013 of the Principal Sub Court, Ernakulam and the plaintiff in O.S.No.471 of 2013 of the said court have applied for removal of the case from the list which stood posted on 04.06.2015 on the ground that they are now staying at the United States of America, and it may not be possible for them to reach the court for tendering evidence. They have sought for getting the suits included in the list of August 2015. The court below, instead of removing the suits from the list, has posted the cases to 15.06.2015 for evidence. The said order is under challenge here.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

3. On considering the request forwarded by the learned counsel for the petitioners and also considering the facts and circumstances of these cases, this Court is of the view that this is a fit case wherein the court below can be directed to remove the cases from the list at present and to include the cases in the list of August, 2015 for trial, so that the matter can be disposed of.

With the above direction, this Original Petition is disposed of.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge