

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

OP(C).No. 1348 of 2015 (O)

**IA.NO.5333/2013 IN OS 1179/2011 OF PRINCIPAL SUB COURT,
THIRUVANANTHAPURAM, DATED 03-03-2014**

PETITIONER(S):

**REX D'SILVA, AGED 49 YEARS,
T.C.27/1652-2, PALLOOR ROAD, VANCHIYOOR PO,
TRIVANDRUM, REPRESENTED BY
HIS POWER OF ATTORNEY HOLDER,
R. CHANDRANKUTTY, T.C.42/461, MEENA MANDIRAM,
PARAMBIL LANE, VALLAKKADAVU PO, MUTTATHARA,
TRIVANDRUM.**

**BY ADVS.SRI.M.BALAGOVINDAN
SRI.T.K.ANANDA PADMANABHAN**

RESPONDENT(S):

**MRS. MARIE CELINE GOMEZ,
T.C.27/1648 AND 1649, PALLOOR ROAD, VANCHIYOOR PO,
TRIVANDRUM NOW RESIDING AT 25,
THE BRI ARS WALTHOM CROSS, HERTS, EN.88 SW U.K
REPRESENTED BY HER POWER OF ATTORNEY HOLDER
RAMACHANDRAN PREMCHAND,
S/O.RAMACHANDRA NAIR RESIDING AT 10A, SKYLINE,
MELODY D.P.I JUNTION, THIRUVANANTHAPURAM-14.**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 09-07-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- TRUE COPY OF THE PLAINT OS.1179/2011 BEFORE THE SUBORDINATE JUDGES COURT, THIRUVANANTHAPURAM DATED 4.10.2011
- P2- TRUE COPY OF THE PLAINT IN OS 1478/2011 BEFORE THE SUBORDINATE JUDGES COURT, 1478/2011 BEFORE THE SUBORDINATE JUDGES COURT, THIRUVANANTHAPURAM DATED 15.12.2011
- P3- POWER OF ATTORNEY ATTESTED BY NOTARY PUBLIC DATED 13.11.2013
- P4- TRUE COPY OF THE I.A.5333/2013 DATED 22.11.2013
- P5- TRUE COPY OF THE ORDER IN IA 5333/2013 IN OS 1179/2011 BEFORE THE PRINCIPAL SUB JEGE, THIRUVANANTHAPURAM DATED 3.3.2014
- P6- TRUE COPY OF THE OBJECTION DATED 29.8.14
- P7- TRUE COPY OF THE REVIEW APPLICATION DATED 24.3.2015
- P8- TRUE COPY OF HTE ORDER OF REVIEW APPLICTION DATED 9.4.2015
- P9- TRUE COPY OF IA 1051/2015 DATED 24.3.2015 FILED BY THE RESPONDENT
- P10- TRUE COPY OF THE OBJECTION FILED BY THE PETITONER DATED 6.4.2015

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B.KEMAL PASHA, J.

.....
O.P.(C) No.1348 of 2015

.....
Dated this the 9th day of July, 2015

J U D G M E N T

A Power of Attorney was produced for and on behalf of the plaintiff in O.S.No.1179/2011 before the court below and I.A.No.5333 of 2013 was filed for accepting the Power of Attorney. Through Ext.P5 order dated 03.03.2014 the court below has accepted the Power of Attorney under Order III Rule 1 of the Code of Civil Procedure, 1908. It seems that thereafter the defendant has filed Ext.P7 review petition, that too, almost after one year seeking the review of Ext.P5 order and to get Ext.P5 order set aside. The court below through Ext.P8 order held that Ext.P5 order was passed without hearing the defendant and therefore, there is

sufficient reason to review Ext.P5 order. On that ground Ext.P7 review petition was allowed.

2. Heard the learned counsel for the petitioner. Even though notice has been served on the respondent, there is no representation for the respondent.

3. Ext.P8 order is a cryptic order passed by the court below. The grounds on which the court below has passed the said order are not discernible from Ext.P8 order. The court below has not stated anything in Ext.P8 order with regard to the acceptability or otherwise of the Power of Attorney. Once the court below has accepted the Power of Attorney through Ext.P5 order and it seems that unnecessarily through Ext.P8 order, Ext.P5 order has been reviewed. The net result is that I.A.No.5333/2013 is presently left open. The court below is directed to pass a speaking order on I.A.No.5333/2013, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

In the result, this Original Petition stands allowed and the court below is directed to pass a speaking order on I.A.No.5333/2013, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge