

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

OP(C).No. 1425 of 2015 (O)

OS.NO.977/2012 OF MUNSIFF'S COURT, NEYYATTINKARA

PETITIONER(S):

1. REETHA BAI, AGED 57 YEARS, D/O.DASAN NADAR,
RESIDING AT JIJO BHAVAN, ERICHALLOOR DESOM,
KAKARAVILA, KARODE VILLAGE, NEYYATTINKARA TALUK.
2. SELVA RAJ, AGED 64, S/O.JABEL, RETD.GOV.T.SERVANT, RESIDING AT
JIJO BHAVAN, ERICHALLOOR DESOM,
KAKARAVILA, KARODE VILLAGE, NEYYATTINKARA TALUK.

BY ADV. SRI.S.SHYAM

RESPONDENT(S):

1. SAMSON, S/O.DASAN NADAR, AGED ABOUT 62,
H.NO.8/390, THURAVOOR VILLAGE, KIDANGOOR POST,
ALUVA TALUK, ERNAKULAM DISTRICT-682302.
2. BEENA BERNABAS, D/O.DASAN NADAR,
AGED ABOUT 60, RESIDING AT BLESS,
CHENKAVILA ADAKKAKUZHI P.O., KALIKKAVILA (VIA),
VILAVANCODE TALUK, KANIYAKUMARI DISTRICT-695122.
3. SHEELA BAI, D/O.DASAN NADAR, AGED ABOUT 54,
KRIPA, VENGANOOR DESOM, NELLIVIAL P.O.,
VENGANOOR VILLAGE, NEYYATTINKARA TALUK-695122.

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 19-06-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

OP(C).No. 1425 of 2015 (O)

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF IA.NO.2213/15 IN OS.977/12 ON THE FILES OF THE MUNSIFF'S COURT, NEYYATTINKARA**
- P2: COPY OF THE ORDER DATED 1/6/15 IN IA.2212/15 IN OS.977/12 ON THE FILED OF THE MUNSIFF'S COURT NEYYATINKARA**
- P3: COPY OF THE ORDER DATED 1/6/15 IN IA.2213/15 IN OS.977/12 ON THE FILED OF THE MUNSIFF'S COURT NEYYATINKARA**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B. KEMAL PASHA, J.

.....
O.P.(C) No.1425 of 2015
.....

Dated this the 19th day of June, 2015

J U D G M E N T

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The prayer of the petitioners, who are the plaintiffs in the suit before the court below, is to examine the 1st defendant, who was not ready to mount the box. The 1st defendant submitted before the court below that he had no evidence to adduce. The petitioners wanted to press into service the deposition of the 1st defendant in a criminal case for the offence under Section 138 of the NI Act. The court below has rightly declined the request. It is trite that the previous deposition in another case can only be made use for contradicting the concerned witness and it cannot be made use of as a substantive piece of evidence. Matters being so, there is absolutely nothing to interfere with the stand taken by the court below.

OP(Civil) is accordingly dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)