

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

OP(C).No. 3693 of 2013 (O)

AGAINST THE ORDER IN IA NO.582/2012 IN OS NO.92/2009 of SUB COURT,ATTINGAL

PETITIONER(S):

SHANIDA, AGED 59 YEARS
D/O.KASIM, SHALIMAR HOUSE, VENKULAM DESOM
EDAVA VILLAGE, VARKALA, THIRUVANANTHAPURAM DISTRICT
PIN-695 311.

BY ADVS.SRI.C.S.MANU
SMT.NEETHU.K.SHAJI

RESPONDENT(S):

SABITHA
D/O.SARA UMMAL, MOODILLA VILAYIL, PARAYIL DESOM
EDAVA VILLAGE, VARKALA, THIRUVANANTHAPURAM DISTRICT
PIN-695 311.

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 25-06-2015, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 3693 of 2013 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1- TRUE COPY OF THE PLAINT IN O.S.NO.92 OF 2009 ON THE FILES OF THE
PRINCIPAL SUB COURT,ATTINGAL.

EXT.P2- TRUE COPY OF PRIVATE COMPLAINT TAKEN ON FILE AS S.T.NO.11 OF 2009 ON
THE FILES OF JUDICIAL FIRST CLASS MAGISTRATE'S COURT-II VARKALA, FILED BY THE
PETITIONER.

EXT.P3- TRUE COPY OF THE I.A.NO.582 OF 2012 IN O.S.NO.92 OF 2009 ON THE FILES OF
SUB COURT,ATTINGAL, FILED BY THE PETITIONER.

EXT.P4- TRUE COPY OF THE ORDER DATED 10.9.2013 IN I.A.NO.582 OF 2012 IN O.S.NO.92
OF 2009 ON THE FILES OF SUB COURT,ATTINGAL.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

A.HARIPRASAD, J.

O.P.(C) No.3693 of 2013

Dated this the 25th day of June, 2015

JUDGMENT

Ext.P4 order passed by the Sub Judge, Attingal on I.A.No.582 of 2012 in O.S.No.92 of 2009, a suit for recovery of money based on a dishonoured cheque, is the subject matter of this original petition.

2. Heard the learned counsel for the petitioner.

3. Ext.P1 is the copy of the plaint. It is mentioned in Ext.P1 plaint that the transaction which led to the litigation took place on 26.07.2007. According to the learned counsel, the date should have been 26.05.2007. To show that it is a mistake, Ext.P2 complaint filed by the petitioner under Section 138 of the Negotiable Instruments Act against the respondent/defendant is produced. Therein, the date of transaction is shown as 26.05.2007. According to the learned counsel for the petitioner, in spite of no opposition raised by the respondent, learned Sub Judge dismissed the application as per Ext.P4 order without any convincing legal reason. After hearing the learned counsel for the petitioner and on going through the impugned order, I am of the view that the court below should have allowed the amendment to avoid technicalities at a later point of time. The reasons stated in Ext.P4 order are not sustainable.

In the result, the petition is allowed. Ext.P4 order is set aside and Ext.P3 application for amendment of the plaint is allowed. Court below shall permit the respondent to file an additional written statement, if she wishes to do so. The suit shall be disposed of as expeditiously as possible, at any rate within a period of six months from the date of production of a copy of this judgment.

A. HARIPRASAD, JUDGE.

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