

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

OP(C).No. 1492 of 2015 (O)

**AGAINST THE ORDER IN I.A.NO.868/2015 IN O.S.NO.324/2012 OF THE MUNSIFF'S
COURT, HARIPAD DATED 15.06.2015.**

PETITIONER(S)/PLAINTIFF :

**JAYA DEVI S, AGED 37 YEARS,
D/O.SULOCHANA DEVI, KIZHAKKE MANAMPRAATHU VEEDU,
MAHADEIKAD P.O., MAHADEVIKAD MURI,
KARTHIKAPPALLY VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT-690 555,
NOW RESIDING AT SAI KRIPA HOUSE NO.II,
MUNESWAR NAGAR, ULLALL ROAD, BANGALORE-560 056.**

BY ADV. SRI.G.BENO

RESPONDENT(S)/DEFENDANTS :

- 1. JAYAPRAKASH K., AGED 42 YEARS,
S/O. LATE KRISHNA PILLAI, KIZHAKKE MANAMPRAATHU VEEDU,
MAHADEIKAD P.O., MAHADEVIKAD MURI, KARTHIKAPPALLY VILLAGE,
KARTHIKAPPALLY TALUK, ALAPPUZHA DISTRICT-690 555.**
- 2. SULOCHANA DEVI , AGED 76 YEARS
W/O. LATE KRISHNA PILLAI, KIZHAKKE MANAMPRAATHU VEEDU,
MAHADEIKAD P.O., MAHADEVIKAD MURI,
KARTHIKAPPALLY VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT-690 555.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 26-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : TRUE COPY OF THE PLAINT IN O.S.NO.342/12.**
- P2 : TRUE COPY OF THE ORDER IN I.A.NO.1788/12 DATED 25.05.2013.**
- P3 : TRUE COPY OF THE COMMISSIONER REPORT DATED.15.12.2012 IN EXT.P1.**
- P4 : TRUE COPY OF THE I.A NO.868/15 DATED.11.06.2015 WITH AFFIDAVIT SEEKING APPOINTMENT OF COMMISSIONER.**
- P5 : TRUE COPY OF THE I.A.NO.869/2015 DATED 11.06.2015 IN EXT.P1.**
- P6 : TRUE COPY OF THE OBJECTION OF DEFENDANTS IN EXT.P4.**
- P7 : TRUE COPY OF THE OBJECTION OF DEFENDANTS IN EXT.P5.**
- P8 : TRUE COPY OF THE ORDER OF THE HON'BLE MUNSIF COURT DATED 15.6.12 IN EXT.P4.**
- P9 : TRUE COPY OF THE I.A NO.885/15 TO RESTORE EXT.P1.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

B.KEMAL PASHA, J.

.....
O.P.(C) No.1492 of 2015
.....

Dated this the 26th day of June, 2015

J U D G M E N T

Heard.

2. An application for issuance of a Commission was filed. It seems that the court below has dismissed the IA, and after that, the suit itself has been dismissed for default. Now, the petitioner, who is the plaintiff, challenges the dismissal of the IA. So long as the suit is not restored, the order in the said IA cannot be acted upon and therefore, the said challenge is not maintainable at present.

In the result, this Original Petition is dismissed, with liberty to the petitioner to move this Court once again challenging Ext.P8 order, in case the suit is restored.

Sd/- B.KEMAL PASHA, JUDGE

O.P.(C) of 2015

-: 2 :-

ul/-

[True copy]

P.S. to Judge