

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

OP(C).No. 1553 of 2015 (O)

(O.S.NO.263 OF 2012 OF PRINCIPAL SUB COURT, NORTH PARAVUR)

PETITIONER(S) :

PAULOSE @PAULO AGED 69 YEARS,
S/O.DEVASSY, KANJUKKARAN VEETIL, MOOKANNUR P.O,
ANGAMALY VIA, ERNAKULAM DISTRICT. PIN 683 577.

BY ADVS.SRI.K.V.SOHAN

SMT.SREEJA SOHAN.K.
SRI.ROVIN RODRIGUES

RESPONDENT(S) :

1. ELIAS K. VARGHESE
S/O.VARGHESE, KAVALACKAL VEETIL, KALLUPALAM NAGAR,
ANGAMALY P.O, ERNAKULAM DISTRICT, 683 572.

2. THE SENIOR MANAGER,
PUNJAB NATIONAL BANK, ANGAMALY BRANCH, ANGAMALY,
ERNAKULAM DISTRICT. 683 572.

R1 BY ADV. SRI.ASP.KURUP

R1 BY ADV. SRI.SADCHITH.P.KURUP

R BY SRI.SANTHEEP ANKARATH, SC, PUNJAB NATIONAL BANK

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 23-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C) .No. 1553 of 2015 (O)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1. COPY OF THE JUDGMENT IN FAO 151/11, DATED 22.2.12.

EXHIBIT P2. COPY OF THE APPLICATION IA 1337/14 SEEKING
AMENDMENT DATED 9.7.14.

EXHIBIT P3. COPY OF THE ORDER IN IA 1347/14 IN OS 263/12,
DATED 14.1.15.

RESPONDENT(S) ' EXHIBITS: NIL

// TRUE COPY //

PA TO JUDGE

K.ABRAHAM MATHEW, J.

O.P.(C). No.1553 of 2015

Dated this the 23rd day of September, 2015

JUDGMENT

Petitioner is the plaintiff in O.S.No.263 of 2012 on the file of Principal Munsiff, North Paravur. He filed I.A.No.1337 of 2014 for amendment of the plaint. By Ext.P3 order the learned Sub Judge dismissed it. The correctness is challenged.

2. Heard.

3. One of the prayers in the amendment application is to direct the 1st respondent (1st defendant) to return the purchase certificate issued to the petitioner from the Land Tribunal. The other amendment is to direct the 1st respondent to pay the petitioner Rs.1,85,000/- with interest at 12% per annum. I think the first prayer does not affect the rights of the parties.

4. The second prayer is on the basis of subsequent development. But the main objection is that the claim is time barred. It is a matter to be decided in the trial. Learned counsel for the petitioner submits that the foundation for the claim for payment of the amount is already therein the pleadings. This is a matter to be looked into by the

trial court. If a direction is issued that the amendment will not relate back to the date of filing of the suit, I think no prejudice will be caused to the respondents.

In the result, this OP is allowed. The amendment will relate back only to the date of filing of the amendment application. The trial court may consider at the trial whether there is a foundation in the original pleadings for prayer for the recovery on Rs.1,85,000/-. The suit shall be disposed on or before 23.12.2015.

**K.ABRAHAM MATHEW
JUDGE**

pm