

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

FRIDAY, THE 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

OP(C).No. 4018 of 2013 (O)

PETITIONER(S):

**GEETHA,
CHELLIKKATT GEETHANJILI, PATTANAKKAD, CHERTHALA.**

BY ADV. SRI.J.OM PRAKASH

RESPONDENT(S):

**THE PATTANAKKAD GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
PATTANAKKAD P.O. CHERTHALA-688 531.**

**R BY ADVS. DR.V.N.SANKARJEE
SRI.V.N.MADHUSUDANAN
SMT.R.UDAYA JYOTHI
SRI.JAYAKRISHNAN.C.H
SMT.K.S.SANDHYA**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 31-07-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

DG

OP(C).No. 4018 of 2013 (O)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1 - A TRUE COPY OF THE PLAINT IN O.S.NO.476/2011 DATED 24-10-2011.

EXT.P2 - A TRUE COPY OF THE IA 1719/2012 DATED 30-6-2012.

EXT.P3 - A TRUE COPY OF THE IA.NO.2361/2013 DATED 21-8-2013.

**EXT.P4 - A TRUE COPY OF THE B DIARY OF O.S.NO.476/2011 OF THE MUNSIFF'S
COURT CHERTHALA.**

**EXT.P5 - A TRUE COPY OF THE WRITTEN STATEMENT OF THE FIRST DEFENDANT IN
O.S.476/201.**

EXT.P6 - A TRUE COPY OF THE I.A.NO.3022/2013.

EXT.P7 - A TRUE COPY OF THE OBJECTION TO THE I.A.NO.3022/2013.

EXT.P8 - A TRUE COPY OF THE ORDER IN I.A.NO.3022/2011 DATED 30-10-2013.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A TO JUDGE

SUNIL THOMAS, J.

O.P.(C).No.4018 of 2013

Dated this the 31st day of July, 2015

J U D G M E N T

- 1.The plaintiff in a suit for declaration and consequential injunction is the petitioner herein.
- 2.The plaintiff laid the above suit evidenced by Exhibit P1. Thereafter, the defendant Panchayath appeared and after two postings, sought time for filing written statement. Ultimately, Exhibit P2 application was filed, seeking a further extension beyond the statutory period which was granted. Thereafter, there was considerable delay in filing the written statement. Ultimately, it was filed along with Exhibit P6 application. The court below, by Exhibit P8 order, held that no sufficient reason has been stated, but allowed the application, in the interest of justice. This is assailed in this writ petition.
- 3.Heard both sides and examined the records.

4.A perusal of Exhibit P6 shows that, at paragraph 3, the Panchayath has vaguely stated that it took some time to verify the records and to file written statement. However, apart from this bare statement, no valid reason is stated as to how the considerable delay of 730 days occurred in filing the written statement. The learned counsel for the petitioner, relying on the decision reported in **Sona Bala Bora & others v. Jyotindra Bhattacharjee [(2005) 4 SCC 501]** as well as **M/s.Aditya Hotels (P) Ltd. v. Bombay Swadeshi Stores Ltd & others [AIR 2007 SC 1574]** contended that the court could have granted extension only for definite, cogent and convincing reasons. Even if, in exceptional cases, interest of justice demanded extension of time, it should have been done only on payment of cost, or even compensatory cost, in appropriate cases.

5.A perusal of the plaint discloses that plaintiff had sought for compensation also, under 40 heads. She had relied on various documents and the corresponding quantum of compensation sought was also mentioned. They were under separate heads.

6. Apart from that, a list of 37 documents was also filed.

Evidently, the Panchayath being a statutory authority was called upon to peruse the above documents and to prepare a comprehensive written statement. It is true that the above explanation is neither forthcoming in the interlocutory application nor is reflected in the discussion of the facts as mentioned by the court below. However, it is discernible from the available records.

7. Evidently, there seems to be some delay and latches on the part of the Panchayath. They could have very well explained it, if there were valid reasons for the delay of 730 days. However, the interest of justice demands that the parties should be relegated to the court below, to have the trial on merits.

In the above circumstances, I am inclined to dispose of the original petition, confirming the impugned order, but with a cost of ₹2,000/- (Rupees two thousand only) payable by the Panchayath to the learned counsel for the petitioner herein.

On payment of the cost, the parties will be permitted to contest the proceedings. The above amount shall be paid within a period of four weeks from today and memo/receipt evidencing the payment to be produced before the court below. On being satisfied that the amount has been remitted, the court below shall proceed with the case. In case of nonpayment of the above cost, the court can pass appropriate orders, including the rejection of the written statement.

Original petition is disposed of as above.

Sd/-
(SUNIL THOMAS, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG