

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

OP(C).No. 4247 of 2013 (O)

(OS.NO. 1222/2005 OF II ADDL.MUNSIFF COURT, ERNAKULAM)

PETITIONER(S):

1. K.V.SOBHA @ SODARY,W/O.CHANDRAN,AGED 59 YEARS,
THUNDIPPARAMBIL VEEDU, KANGARAPPADI, KOCHI-21.
2. BIJI M.K, W/O.SATHEESAN A.G,AGED 38 YEARS,
BIJI NIVAS (MEPPILLIL), VYTTLA P.O.,KOCHI-19.
3. BINS A.M.K., W/O.K.VASU, AGED 48 YEARS,
'SATHYAM', PARADISE ROAD,
VYTTLA P.O, KOCHI -19.
4. BEENA M.K,W/O.SAJEEV K.R,AGED 45 YEARS,
VARNAM, VYTTLA P.O.,KOCHI -19.
5. BINDU M.K,W/O.ANILKUMAR, AGED 43 YEARS,
ALAPPAT HOUSE, PONNURUNNI, VYTTLA P.O,
KOCHI -19.

BY ADVS.SRI.K.C.CHARLES
SRI.M.POLY MATHAI
SRI.VIMAL K.CHARLES
SMT.A.T.RENJU

RESPONDENT(S):

1. K.V.GANGADHARAN,
S/O.LATE VELAYUDHAN,AGED 58 YEARS,
KANIYATHU VEEDU, VADAKODU,
KANGARAPPADY, KOCHI -21. (DELETED)
2. K.V.THAMPI,
S/O.LATE VELAYUDHAN,AGED 56 YEARS,
KANIYATHU VEEDU, VADAKODU,
KANGARAPPADY, KOCHI -21.(DELETED)
3. K.V.UDAYAN,
S/O.LATE VELAYUDHAN,AGED 54 YEARS,
KANIYATHU VEEDU, VADAKODU,
KANGARAPPADY, KOCHI -21.

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4. K.V.VENU,
S/O.LATE VELAYUDHAN,AGED 52 YEARS,
KANIYATHU VEEDU, VADAKODU,
KANGARAPPADY, KOCHI- 21.
5. K.V.JANAKI,
D/O.LATE VELAYUDHAN,AGED 50 YEARS,
KANIYATHU VEEDU, VADAKODU,
KANGARAPPADY, KOCHI -21.
6. K.V.BHAVANI,
D/O.LATE VELAYUDHAN,AGED 65 YEARS,
KANIYATHU VEEDU, VADAKODU,
KANGARAPPADY, KOCHI -21. (DELETED)
7. LEELA GANGADHARAN,
W/O.GANGADHARAN, KANIYATHU VEEDU, VADAKODU,
KANGARAPPADY, KOCHI -21.
8. GALEESH K.G,
S/O.GANGADHARAN, KANIYATHU VEEDU, VADAKODU,
KANGARAPPADY, KOCHI -21.
9. LEESHA K.G,
D/O.GANGADHARAN, KANIYATHU VEEDU, VADAKODU,
KANGARAPPADY, KOCHI- 21.
10. DAMAYANTHI,
W/O.K.V.THAMPI,AGED 55 YEARS,
KANIYATHU VEEDU, VADAKODU,
KANGARAPPADY, KOCHI -21.
11. TISHA,D/O.K.V.THAMPI, AGED 33 YEARS,
KANIYATHU VEEDU, VADAKODU,
KANGARAPPADY, KOCHI -21.

RESPONDENTS NO.1,2 AND 6 ARE DELETED AND RESPONDENTS
NOS.3,4,5,7,8,9,10,11 ARE RENUMBERED AS RESPONDENT NOS.1,2,3,4,5,6,7 &
8 AS PER ORDER IN IA.NO.17099/2013 DATED 18/08/2015.

R1 BY ADV. SRI. K. R. MOHANAN
R3,R4,R7 TO R11 BY ADV. SRI.ANUP T PAUL
R5 BY ADV. SRI.A.T.ANILKUMAR

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD
ON 18-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF THE PLAINT IN OS NO.1222/2005 ON THE FILE OF THE 2ND ADDITIONAL MUNSIFFS COURT, ERNAKULAM.
- EXHIBIT P2. COPY OF THE WRITTEN STATEMENT FILED BY THE DEFENDANTS 1 TO 4 IN OS NO.1222/2005 ON THE FILE OF THE 2ND ADDITIONAL MUNSIFFS COURT, ERNAKULAM.
- EXHIBIT P2(A). COPY OF THE WRITTEN STATEMENT FILED BY THE 5TH DEFENDANT IN OS 1222/2005 ON THE FILE OF THE 2ND ADDITIONAL MUNSIFFS COURT, ERNAKULAM.
- EXHIBIT P3. COPY OF IA NO.1102/09 IN OS 1222/2005 ON THE FILE OF THE 2ND ADDITIONAL MUNSIFFS COURT, ERNAKULAM.
- EXHIBIT P4. COPY OF THE COUNTER IN IA 1102/2009 IN OS 1222/2005 ON THE FILE OF THE 2ND ADDITIONAL MUNSIFFS COURT, ERNAKULAM.
- EXHIBIT P5. COPY OF THE IA NO.3868/12 IN OS 1222/2005 IN THE 2ND ADDITIONAL MUNSIFFS COURT, ERNAKULAM.
- EXHIBIT P6. COPY OF IA 4895/12 IN OS 1222/05 IN THE 2ND ADDITIONAL MUNSIFFS COURT, ERNAKULAM.
- EXHIBIT P7. COPY OF THE ORDER IN IA 4895/12 DATED 10.10.12 PASSED BY THE LEARNED MUNSIF.
- EXHIBIT P8. COPY OF THE PUBLICATION SHOWING FEE OF EXPERT SRI. SANDEEP P.N.
- EXHIBIT P9. COPY OF THE PUBLICATION SHOWING FEE OF EXPERT SRI. KHAN SAHIB.
- EXHIBIT P10. COPY OF IA 3544/13 IN OS 1222/05 IN THE 2ND ADDITIONAL MUNSIFFS COURT, ERNAKULAM.
- EXHIBIT P11. THE COUNTER FILED BY THE RESPONDENTS TO THE IA 3544/13 IN OS 1222/05 IN THE 2ND ADDITIONAL MUNSIFFS COURT, ERNAKULAM.
- EXHIBIT P12. COPY OF THE ORDER IN IA 3544/13 DATED 7.9.13 PASSED BY THE LEARNED MUNSIF.

RESPONDENT(S)' EXHIBITS

- EXHIBIT R1(A). COPY OF THE INJUNCTION ORDER DATED 09/09/2005
- EXHIBIT R1(B). COPY OF THE INJUNCTION SCHEDULE DATED 04/09/2005

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EXHIBIT R1(C). COPY OF THE AMENDMENT APPLICATION I.A.NO.10423/2007
DATED 04/09/2005

EXHIBIT R1(D). COPY OF THE AMENDED PLAINT DATED 04/09/2005

EXHIBIT R1(E). COPY OF THE PANEL OF EXPERTS DATED 07/01/2010

EXHIBIT R1(F). COPY OF THE LETTER ISSUED BY FSL DATED 02/12/2012.

EXHIBIT R1(G). COPY OF THE ORDER IN IA.NO.3868/2012 IN O.S.NO.1222/2005
DATED 26/07/2012

/TRUE COPY/

P.S.TO JUDGE

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B. KEMAL PASHA, J.

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Dated this the 18th day of August, 2015

J U D G M E N T

Through Ext.R1(G) order, the court below has ordered the disputed documents to be sent to one Khan Sahib, for opinion at the expenses of the petitioners herein. The petitioners were directed to produce a DD for ₹30,000/- drawn in favour of the said Khan Sahib, payable at Kozhikode.

2. On hearing the learned counsel appearing on both sides, it has come out that the so-called expert is charging exorbitant rate for giving opinion, and further he used to charge an amount of ₹10,000/- each for his availability before court for examination for one posting.

3. The said attitude of such an expert cannot be countenanced. The court below shall permit the petitioners

to send the disputed document, along with connected documents, to the Director, Bureau of Police, Research Department, Government Of India, CFI Complex, Ramanathapuram, Andra Pradesh, PIN-500013, for examination. The petitioners shall bear all expenses for such an examination. It has been reported by the learned counsel for the petitioners that it will take around one month only for getting the report from the said institution. The court below, on getting the report, shall make every endeavour to dispose of the suit expeditiously, at any rate, within a period of six months from the date of receipt of a copy of this judgment.

The Original Petition is disposed of as above.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge