

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

OP(C).No. 1787 of 2015 (O)

AS 24/2015 OF SUB COURT, CHAVAKKAD

PETITIONER(S):

1. ATHIRA, D/O.VALATH ADHINATHAN & W/O.TOMY
ARAKKAL NELLISSERY HOUSE, VALAPAD, CHAVAKKAD,
THRISSUR.
2. ARSHA,
D/O.VALATH ADHIADHAN, C/O.SUSHITHA, W/O.UDHAYAKUMAR,
KAKKANATT HOUSE, ENGADIYUR, CHAVAKKAD,
THRISSUR.

BY ADV. SRI.K.A.SREEJITH

RESPONDENT(S):

**ADHINADHAN,
S/O.KRISHNAN, VALATH HOUSE, CHANGALAYI DESAM,
MULLASSERY, CHAVAKKAD, THRISSUR 680 567.**

**BY ADVS. SRI.K.S.BHARATHAN
SMT.S.ANJUSHA**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 25-09-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

OP(C).No. 1787 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE AWARD NO.1/2011 IN P.L.P NO.7/2011.

**EXHIBIT P2. COPY OF THE DOCUMENT NO.1526/2014 OF MULLASSERY SUB
REGISTRAR OFFICE DATED 11.4.14.**

EXHIBIT P3. COPY OF THE DELIVERY RECEIPT IN EP 64/13 IN AWARD NO.1/2011

EXHIBIT P4. COPY OF THE DELIVERY REPORT IN EP 64/13 IN AWARD NO.1/2011.

EXHIBIT P5. COPY OF THE APPEAL MEMORANDUM OF AS 24/15.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K. ABRAHAM MATHEW, J.

O.P.(C)No.1787 of 2015

Dated this the 25th day of September, 2015

J U D G M E N T

There was a pre-litigation petition, PLP No.7 of 2011, which was considered by the Taluk Legal Services Committee, Chavakkad. The parties came to a settlement as seen from Ext.P1 and on the basis of the settlement an award also was passed. It is submitted that the respondent in this O.P, who was the petitioner in the pre-litigation petition, has filed an appeal before the Sub Court, Chavakkad and the learned Sub Judge has entertained it and numbered it as AS.24 of 2015. The only prayer in this O.P is to direct the learned Sub Judge to hear on the question of maintainability of the appeal.

2. Heard.

3. It is not proper for me to express any opinion about the maintainability of the appeal but I would like to make it clear that an appeal is maintainable only against a decree in the suit unless a statute provides to the contrary. The learned Sub Judge should also bear in mind

that an appeal is not maintainable even against a compromise decree.

In the result, this O.P is allowed. The learned Sub Judge, Chavakkad is directed to hear the maintainability of the appeal as a preliminary question within one month from the date of receipt or production of a copy of this judgment.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge