

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.N. RAVINDRAN
&
THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

RFA.No. 72 of 2009 ()

AGAINST THE JUDGMENT IN OS 165/1999 of I ADDL. SUB COURT, KOZHIKODE DATED
06-08-2008

APPELLANT/DEFENDANT:

KOZHIKODE CORPORATION
REPRESENTED BY ITS SECRETARY, JOHNY SEBASTIAN.

BY ADV. SRI.K.D.BABU, SC, KOZHIKODE CORPORATION

RESPONDENT/PLAINTIFF:

M.SOMACHANDRAN, S/O CHATHU,
'AMRUTHALAYAM', P.T. ROAD, VATAKARA AMSOM
DESOM, VATAKARA TALUK.

BY ADV. SRI.R.SURENDRAN

THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD ON
30-01-2015, ALONG WITH WPC.22574/2011, RFA.666/2013, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

P.N.RAVINDRAN & ANIL K.NARENDRA, JJ.

R.F.A.Nos.72 of 2009 & 666 of 2013

&

W.P.(C)No.22574 of 2011

DATED THIS THE 30th DAY OF JANUARY, 2015

JUDGMENT

ANIL K.NARENDRA, J.

The plaintiff in O.S.No.165 of 1999 on the file of the Court of the First Additional Subordinate Judge, Kozhikode is the appellant in R.F.A.No.666 of 2013. The said suit is one for declaration and other reliefs. The trial court, by judgment and decree dated 6.8.2008 decreed the suit in part and the appellant/plaintiff was allowed to realise a sum of ₹3,00,000/- together with interest @ 6% p.a. from the date of suit till realisation from the defendant (Corporation of Kozhikode) and its assets. The declaration and injunction prayed for by the plaintiff was disallowed. Aggrieved by the judgment and decree of the trial court, the plaintiff filed R.F.A.No.666 of 2013 before this Court as an indigent person.

2. R.F.A.No.72 of 2009 arises out of the very same judgment and decree of the trial court in which the Corporation of Kozhikode, the defendant in O.S.No.165 of 1999 is the appellant. The challenge in the said appeal is against the judgment and decree of the trial court decreeing the suit in part.

3. W.P.(C)No.22574 of 2011 is filed by the plaintiff in O.S.No.165 of 1999 seeking a writ of certiorari to quash Ext.P6 Government order dated 27.9.2010 and also an order directing the Corporation of Kozhikode to pay a sum of ₹28,23,470.60 with reasonable interest accrued thereon from 19.8.1997 till the date of payment.

4. By order dated 10.3.2014, as requested by both sides, the cases were referred to mediation and the parties were directed to appear before the Nodal Officer of Ernakulam Mediation Centre on that day itself.

5. Now the parties have settled the disputes in R.F.A.No.72 of 2009 and 666 of 2013 and in W.P.(C)No.22574 of 2011. The terms and conditions of the settlement, reduced to writing in the form of a settlement agreement dated 19.1.2015, verified and signed by the parties and attested by their respective counsel is forwarded to this Court along with a report of the Mediator dated 21.1.2015, for recording such compromise and to dispose of the cases in terms of the said compromise. The terms of settlement contained in paragraphs 1 to 8 of settlement agreement dated 19.1.2015 shall be read as part of this judgment.

6. In view of the compromise entered into between the parties, R.F.A.No.666 of 2013 is disposed of in terms of the settlement recorded before the Mediator on 19.1.2015 and R.F.A.No.72 of 2009 and W.P.(C)No.22574 of 2011 are dismissed as withdrawn, so as to enable the parties to act in terms of the compromise recorded before the Mediator on 19.1.2015. A copy of the memorandum of settlement shall be appended to this judgment.

In view of the settlement of the disputes through mediation, it is ordered that the appellant in R.F.A.No.72 of 2009 shall be refunded the whole court fee paid on the memorandum of that appeal. Similarly, the appellant in R.F.A.No.666 of 2013 who filed the said appeal as an indigent person, shall be absolved from payment of any court fee in that appeal.

Sd/-
P.N.RAVINDRAN,
JUDGE

Sd/-
ANIL K.NARENDRA,
JUDGE

dsn