

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

OP(C).No. 1050 of 2014 (O)

AGAINST THE ORDER/JUDGMENT IN I.A.NO.844 OF 2012 IN LAR NO.68
OF 2011 OF SUB COURT, PATHANAMTHITTA

PETITIONER :

PARAMESWARAN NAIR,
S/O GOPALAN NAIR, KODAKAVIL HOUSE, PERUNAD P.O.,
PERUNAD MURI AND VILLAGE.

BY ADVS.SRI.V.B.UNNIRAJ
SMT.R.S.GEETHA
SMT.P.ANITHA

RESPONDENTS :

1. P.M.THOMAS,
PUTHENVEETIL HOUSE, KARIKULAM P.O., ATHIKAYAM,
RANNI TALUK, PATHANAMTHITTA - 689 673.

2. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

R2 BY GOVERNMENT PLEADER SRI.REJI JOSEPH

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD
ON 22-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP(C) .No. 1050 of 2014 (O)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1 : COPY OF THE CLAIM STATEMENT FILED BY THE
PETITIONER DATED 01.02.2012.

EXHIBIT P2 : COPY OF THE I.A. NO.763 OF 2012 IN L.A.R NO.68
OF 2011 FOR REVEIW FILED BY THE PETITIONER DATED 28.03.2012.

EXHIBIT P3 : COPY OF THE ORDER IN I.A.NO.763 OF 2012 DATED
04.04.2012.

EXHIBIT P4 : COPY OF THE IA. NO.844 OF 2012 FILED PRAYING FOR
RESTORATION OF EXHIBIT P2 REVIEW PETITION DATED 11.04.2012.

EXHIBIT P5 : COPY OF THE ORDER PASSED BY THE COURT BELOW IN
I.A.NO.844 OF 2012 DATED 04.11.2013.

RESPONDENTS' EXHIBITS :

NIL

// True Copy //

P.A. To Judge

DSV/23/5/15

B.KEMAL PASHA, J.

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O.P.(C). No.1050 of 2014

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Dated this the 22nd day of May, 2015

J U D G M E N T

Initially the claim was decided exparte. A Review Petition was filed. That Review Petition happened to be dismissed for default, as there was no representation for the petitioner. An application for restoration of that Review Petition was filed. The said I.A. was not supported by an affidavit sworn in by the party. Mainly it was on that ground, the court below has passed Exhibit P5 order.

2. Heard the learned counsel for the petitioner and the learned Government Pleader.

3. It seems that in Exhibit P5 order itself, the court below has given an opportunity to the petitioner to file a fresh application through the party concerned. It seems that

without having recourse to that mode, the party has rushed to this Court. Still this Court is also of the view that the party can be permitted to prefer an application before the court below as directed.

With the said observation, this Original Petition (Civil) is dismissed.

Sd/-
B.KEMAL PASHA
JUDGE