

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

OP(C).No. 2444 of 2015 (O)

O.S.NO.919/2011 OF PRINCIPAL SUB COURT, ERNAKULAM

PETITIONER :

S. RAMACHANDRAN, AGED 46 YEARS
S/O A.P. SHANMUGHA REDDY, EWS 767, GANDHI NAGAR
ELAMKULAM VILLAGE, ERNAKULAM-682 028

BY ADV. SRI.DILISH JOHN

RESPONDENTS :

1. K. MOHANRAJ, AGED 50
S/O KANDHASWAMI, THYKODAM, ERNAKULAM

2. SHAMUGHRAJ, AGED 33
S/O SHANKER , EWS 684, GANDHINAGAR
COCHIN-20

3. MARUCHAMI P.A, AGED 32
2/21, KALAGHAR STREET, GANDHINAGAR
CHENNAI-89

R1 BY ADV.SRI.T.RAJESH

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 19-10-2015, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 2444 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: COPY OF THE ORDER IN IA 2923/15 IN OS 919/11

EXT.P2: COPY OF THE AMENDED PLAINT IN OS 919/11

EXT.P3: COPY OF THE PLAINT IN OS 919/11

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A TO JUDGE

AV

K.ABRAHAM MATHEW, J.

O.P.(C).No.2444 of 2015

Dated this the 19th day of October, 2015

J U D G M E N T

Petitioner was the first defendant in O.S.No.919 of 2011 filed by the first respondent for settlement of accounts and dissolution of their partnership firm. I.A.No.2923 of 2015 filed by the petitioner to receive the additional written statement was dismissed by the trial court as seen from Ext.P1. This is challenged in this original petition.

2. Heard.

3. The ground stated in the affidavit filed in support of the application for receiving additional written statement is that as the petitioner happened to file the earlier additional written statement in haste some omissions occurred in it and he wants to supply the omissions by filing the proposed additional written statement.

4. A perusal of the copy of A' Diary shows the following facts :

The first respondent was allowed to amend the plaint on 13.03.2014. The case was adjourned to 24.05.2014 for additional written statement and again to 04.06.2014. The

petitioner did not file any additional written statement. The plaint was again amended on 20.08.2014. The case was adjourned to 24.09.2014 for additional written statement. But the petitioner did not file any additional written statement. After several adjournments, the suit was posted for trial to 02.07.2015. On that day, the petitioner was given two days time to file additional written statement and the case was posted to 06.07.2015 for trial. The next sitting was on 08.07.2015. The petitioner filed an additional written statement. After several adjournments evidence was recorded and the last posting was on 27.07.2015. The petitioner in the meanwhile filed I.A.No.2890 of 2015 for amending the written statement, which was dismissed as not pressed. Then he filed I.A.No.2923 of 2015 for filing additional written statement, which has been dismissed by the trial court as per the impugned Ext.P1 order.

5. These facts clearly show that the petitioner got several months to file additional written statement after the plaint was amended. There is no merit in the allegation that he was compelled to prepare an additional written statement in haste. There is no justification for his filing an application in the midst

of the trial to file an additional written statement. The learned Sub Judge was fully justified in passing the impugned order. In the result, this original petition is dismissed.

Sd/-
K.ABRAHAM MATHEW, JUDGE

AV/20/10