

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

OP(C).No. 1620 of 2014 (O)

(Against the order dtd.9.6.14 in I.A.655/14 in O.S.384/12 before Additional
Sub Court, Kottayam)

PETITIONER/RESPONDENT/PLAINTIFF:

M.C. PUNNEN, AGED 75 YEARS
S/O. (LATE) K.C.CHACKO, MALIYAKKAL VEEDU
PANAYAKKAZHIPPUKARA, Y.M.C.A. ROAD,
MUTTAMBALAM VILLAGE, KOTTAYAM DISTRICT,
NOW RESIDING AT UNJAPUNG MAWING B.BLOCK, SHILLONG,
MEGHALAYA STATE, REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER M.C.JOSEPH, NO.3, PRABHU STREET, SANTHOSH
APARTMENT, VETRI NAGAR, CHENNAI-TAMIL NADU-600082.

BY ADVS.SRI.LIJI.J.VADAKEDOM
SRI.P.A.RABEEZ
SRI.RAJEEV JYOTHISH GEORGE

RESPONDENT/PETITIONER/DEFENDANT:

BABU THOMAS, AGED 55 YEARS
S/O.LATE P.C.THOMAS, MALIEKKAL HOUSE
CHILDREN'S LIBRARY ROAD (NEAR CPI(M) OFFICE)
KOTTAYAM TALUK, KOTTAYAM DISTRICT-686001.

BY ADV. SRI.M.J.THOMAS

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 31-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1- THE COPY OF THE PLAINT O.S.NO. 384/20142 BEFORE THE
ADDITIONAL SUB COURT, KOTTAYAM.

EXHIBIT P2- THE COPY OF THE WRITTEN STATEMENT IN O.S.NO. 384/2012
BEFORE THE ADDITIONAL SUB COURT, KOTTAYAM.

EXHIBIT P3- THE COPY OF THE PETITION FILED BY THE DEFENDANT TO
REOPEN THE EVIDENCE IN O.S.NO. 384/2012 BEFORE THE
ADDITIONAL SUB COURT, KOTTAYAM.

EXHIBIT P4- THE COPY OF THE OBJECTION FILED BY THE PLAINTIFF
AGAINST EXHIBIT P3 PETITION IN O.S. NO. 384/2012 BEFORE
THE ADDITIONAL SUB COURT, KOTTAYAM.

EXHIBIT P5- THE COPY OF THE ORDER DATED 9-6-2014 IN
I.A.NO. 655/2014 IN OS.NO. 384/2012 BEFORE THE
ADDITIONAL SUB COURT, KOTTAYAM.

EXHIBIT P6- THE COPY OF THE TREATMENT RECORDS OF PW1 AT THE
CANCER INSTITUTE, CHENNAI.

EXHIBIT P7- THE COPY OF THE SCANNING REPORT DATED 8-6-2014 ISSUED
FROM AARTHI SCANS, CHENNAI TO THE POWER OF ATTORNEY
HOLDER IN O.S.NO. 384/2012 BEFORE THE ADDITIONAL SUB
COURT, KOTTAYAM.

EXHIBIT P8- THE COPY OF THE MEDICAL CERTIFICATE DATED 13-6-2014
ISSUED FROM SOUL HOSPITAL CHENNAI ALONG WITH THE
TREATMENT RECORDS FROM 24-4-2014 TILL 7-6-2014.

RESPONDENT'S EXHIBITS: NIL.

// True Copy //

P.A. To Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.1620 OF 2014

Dated this the 31st day of March, 2015.

J U D G M E N T

Under challenge is Ext.P5 order passed by the Additional Sub Judge, Kottayam. That order related to the recalling of witness.

2. The main objection raised is that without considering the objection filed by the petitioner to the application for recalling the witness, a non speaking order has been passed by the court below imposing certain conditions.

3. Learned counsel appearing for the petitioner points out that the impugned order has been passed in a mechanical way without adverting to the objections raised by the petitioner.

4. After having gone through the records, there seems to be little substance in the contention raised by the learned counsel for the petitioner.

This original petition is allowed and the impugned order is set aside and the matter is remanded to the trial court for fresh consideration in accordance with law.

Sd/-

**P.BHAVADASAN
JUDGE**

smp