

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

OP(C).No. 2806 of 2015 (O)

(I.A.NO.1536/2015 IN O.S.NO.84/2009 OF MUNSIF MAGISTRATE COURT, PONNANI)

PETITIONER(S)/RESPONDENTS/PLAINTIFF:

(WRONGLY SHOWN AS DEFENDANTS IN THE CAUSE TITLE OF THE IMPUGNED ORDER)

- 1. BEEMA BEEGUM, W/O. AMANULLA, AGED 69 YEARS,
RESIDING AT PONNANI NAGARAM AMSOM,
PUNNATHIRUTHY DESOM, PONNANI TALUK,
MALAPPURAM DISTRICT.**
- 2. SHYJI A. KHADHAR, D/O. AMANULLA, AGED 46 YEARS,
RESIDING AT PONNANI NAGARAM AMSOM, PUNNATHIRUTHY DESOM,
PONNANI TALUK, MALAPPURAM DISTRICT.**

BY ADV. SRI.M.P.MOHAMMED ASLAM

RESPONDENT(S):

- 1. KAITHAMA KALATHIL BALA BHASKARAN,
SON OF GOVINDA MENON, AGED 70 YEARS,
RESIDING AT PONNANI NAGARAM AMSOM,
PUNNATHIRUTHY DESOM, PONNANI TALUK,
MALAPPURAM DISTRICT, PIN-679 577**
- 2. KOZHIKOTTA VEETIL SARASWATHY,
W/O. SOMASEKHARA MENON, AGED 60 YEARS,
RESIDING AT PONNANI NAGARAM AMSOM,
PUNNATHIRUTHY DESOM, PONNANI TALUK,
MALAPPURAM DISTRICT, PIN-679 577**
- 3. SANDHYA, D/O. SARASWATHY, AGED 40 YEARS,
RESIDING AT PONNANI NAGARAM AMSOM,
PUNNATHIRUTHY DESOM, PONNANI TALUK,
MALAPPURAM DISTRICT, PIN-679 577**
- 4. SANGEETHA, D/O. SARASWATHY, AGED 36 YEARS,
PONNANI NAGARAM AMSOM, PUNNATHIRUTHY DESOM,
PONNANI TALUK, MALAPPURAM DISTRICT-679 577**

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- 5. SANTHOSH, SON OF SARASWATHY, AGED 34 YEARS,
PONNANI NAGARAM AMSOM, PUNNATHIRUTHY DESOM,
PONNANI TALUK, MALAPPURAM DISTRICT-679 577**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE I.A.NO.954/2013 IN O.S.NO.84/2009 DATED 09/05/2013
- P2 COPY OF THE JUDGMENT OF THE HIGH COURT OF KERALA IN O.P.(C) NO.3661/2013 DATED 25/06/2015
- P3 COPY OF THE PLAINT AMENDED AS MENTIONED ABOVE IN O.S.NO.84/2009 BEFORE THE COURT OF THE MUNSIFF MAGISTRATE, PONNANI DATED 04/04/2009
- P4 COPY OF THE I.A.NO.1536/2015 IN O.S.NO.84/2009 BEFORE THE COURT OF THE MUNSIFF MAGISTRATE, PONNANI DATED 15/09/2015
- P5 COPY OF THE OBJECTION FILED BY THE RESPONDENTS IN I.A.NO.1536/2015 IN O.S.NO.84/2009 BEFORE THE COURT OF THE MUNSIFF MAGISTRATE, PONNANI DATED 12/10/2015
- P6 COPY OF THE ORDER OF MUNSIFF MAGISTRATE, PONNANI IN I.A.NO.1536/2015 IN O.S.NO.84/2009 DATED 19/10/2015.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K. ABRAHAM MATHEW, J.

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Dated this the 20th day of November, 2015

J U D G M E N T

Petitioners are plaintiffs in OS.84 of 2009 of Minsiff Court, Ponnani. This court in OP(C)No.3661 of 2013 allowed them to amend the plaint. The respondents/defendants were directed to file additional written statement within one month from the date of the amendment of the plaint. The petitioners carried out the amendment. It is stated that the respondents did not file written statement within one month from the date of the amendment. Still the learned Munsiff has observed that the amendment was not carried out properly and he has granted them time to file additional written statement. This is challenged.

2. The time granted by this court for the respondents to file additional written statement was one month from the date of amendment of the plaint. The plaint was amended. According to the petitioners, additional written statement was not filed within one

month. In his Ext.P6 order, the learned Munsiff has observed that there was no proper amendment of the plaint and the petition filed by the respondents to condone the delay in submitting the additional written statement was unnecessary and they can file the written statement after the plaint is properly amended.

3. The reason for the learned Munsiff's observing that the amendment in the plaint was not properly carried out is that it was not signed by the counsel and it did not bear date also. In the eye of law these are defects. The petitioners should have cured the defects before the respondents were asked to file additional written statement. In that sense, the observation of the learned Munsiff that there was no delay in filing the written statement appears to be correct. In these circumstances I am not inclined to interfere with the impugned order.

In the result, this OP is disposed of with a direction to the petitioners to cure the defects in the amendment within three weeks and inform the respondents in writing of the date of the amendment of the plaint. They shall also produce a clean copy of the amended plaint. The

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respondents shall file additional written statement within one month from the date of the information about the amendment of the plaint.

**K. ABRAHAM MATHEW
JUDGE**

R.AV

H/O

//True Copy//

PA to Judge