

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

RFA.No. 64 of 2008 ()

OS. NO.11/2000 OF I ADDITIONAL DISTRICT COURT, ERNAKULAM.

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APPELLANTS/PLAINTIFF:

1. REV. FR.P.V. PHILIP, ARIMBACHIRAYIL HOUSE,
PULINTHANAM, MUVATTUPUZZHA.
2. C.Y. VARKEY, CHEERAKATHOTTAM,
CHATHAMATTAM KARA, KADAVOOR VILLAGE,
KOTHAMANGALAM.

BY ADVS.SRI.M.S.UNNIKRISHNAN,
SMT.JAYASREE MANOJ,
SRI.P.Z.NIJAZ.

RESPONDENT/DEFENDANTS:

1. REV. FR.PAUL ISSAC, KAVALELIL HOUSE,
KEEZHILLAM P.O., MANNOOR.
2. IYPE THOMAS, KALLUNGAL HOUSE,
CHATHAMATTAM, KADAVOOR VILLAGE,
KOTHAMANGALAM.

BY ADVS. SRI.VARGHESE.J.PUNNACHALIL,
SRI.K.J.KURIACHAN.

**THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

P.B.SURESH KUMAR, J.

R.F.A.No.64 OF 2008

Dated this the 6th day of March, 2015

JUDGMENT

The appellants have filed I.A.No.507 of 2015 seeking permission to withdraw the appeal and the suit with liberty to file a fresh suit on the same cause of action.

2. The application is not opposed.

3. Rule 1(3) of Order XXXIII of the Code of Civil Procedure provides that where the court is satisfied that a suit must fail by reason of some formal defect, the court may grant the plaintiff permission to withdraw the suit with liberty to institute a fresh suit. It is seen that the suit was dismissed for want of sanction provided for under Section 92(1) of the Code of Civil Procedure.

In the circumstances, the appellants are permitted to withdraw the appeal and the suit O.S.No.11 of 2000 on the file of the Court of the First Additional District Judge, Ernakulam with liberty to file a fresh suit in respect of the subject matter of the said suit.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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