

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 14TH DAY OF DECEMBER 2015/23RD AGRAHAYANA, 1937

OP(C).No. 3017 of 2015 (O)

ORDER DATED 21-11-2015 IN OS 35/2012 OF SUB COURT, PATHANAMTHITTA
.....

PETITIONER(S):

**M.K.BINDU, AGED 44 YEARS,
W/O.T.N.RAMESAN, RESIDING AT THEKKETHOMAYL VEEDU,
KODUMTHARA MURI, PATHANAMTHITTA VILLAGE.**

**BY ADVS.SRI.K.SHAJ
SRI.SAJJU.S
SRI.S.SUNIL NARAYANAN
SRI.RENJIT GEORGE
SRI.S.VISHNU (ARIKKATTIL)
SRI.IJLAL.C**

RESPONDENT(S):

**SOSAMMA MATHEW, AGED 54 YEARS,
W/O.E.C.MATHEW, VINOD BHAVAN, KODUMTHARA MURI,
PATHANAMTHITTA VILLAGE-689 631.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 14-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

OP(C).No. 3017 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1 : THE TRUE COPY OF THE PLAINT IN OS NO.35/2012 BEFORE THE SUB COURT,
PATHANAMTHITTA FILED BY THE PETITIONER.**

**P2 : THE TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE RESPONDENT IN
OS NO.35/2012 BEFORE THE SUB COURT, PATHANAMTHITTA.**

**P3 : THE TRUE COPY OF IA NO.846/2015 IN OS.NO.35/2012 OF THE SUB COURT,
PATHANAMTHITTA.**

**P4 : THE TRUE COPY OF OBJECTION FILED BY THE RESPONDENT IN IA NO.846/2015
IN OS NO.35/2012 OF THE SUB COURT, PATHANAMTHITTA.**

**P5 : THE TRUE COPY OF ORDER DT 21-11-2015 IN IA NO.846/2015 IN OS.NO.35/2012
OF THE SUB COURT, PATHANAMTHITTA.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K. ABRAHAM MATHEW, J.

O.P.(C)No.3017 of 2015

Dated this the 14th day of December, 2015

J U D G M E N T

The petitioner is the plaintiff in OS.35 of 2012 of Sub Court, Pathanamthitta. Her request to send one of the documents produced in the case for expert opinion has been rejected by the trial court. This is challenged in this OP.

2. The respondent has obtained a decree against the petitioner and her husband in OS.40 of 2007. It was a compromise decree. It is the validity of this compromise decree that is challenged in OS.35 of 2012. Prima facie, the suit is not maintainable. The remedy of a party to a compromise decree who attaches the decree is not to file a fresh suit. Since there is no prima facie case in favour of the petitioner, I am of the view that the trial court rightly dismissed the application though the grounds stated by the trial court cannot be accepted. I am not inclined to interfere with the impugned order.

In the result, this OP is dismissed.

sd/-

**K. ABRAHAM MATHEW
JUDGE**