

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN  
&  
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

RFA.No.134 of 2010 (J)  
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AGAINST THE ORDER/JUDGMENT IN OS 76/2007 of PRL.S.C.,THALASSERY  
DATED 30-06-2008

APPELLANT/PLAINTIFF :-  
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CHIRAKKAL MUHAMMED ANEES,  
S/O MAJEED, AGED 28 YEARS, BUSINESS,  
RESIDING AT KANNUR II AMSOM, KAKKAD WARD, KANNUR DT.

BY ADVS.SRI.K.R.AVINASH (KUNNATH)  
SRI.ABDUL RAOOF PALLIPATH

RESPONDENT : DEFENDANT :-  
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BITHINTAVIDA ASIMA,  
D/O.NAFEESU, AGED 66 YEARS, 'ZAHRAH',  
BEHIND ANAYIDUKKU, CO-OPERATIVE BANK, KANNUR-12.

BY ADV. SRI.M.RAMESH CHANDER (SR.)

THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD ON  
28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**P.N.RAVINDRAN & ANIL K.NARENDRA, JJ.**

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**R.F.A.No.134 of 2010**  
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**Dated this the 28<sup>th</sup> day of January, 2015**

**JUDGMENT**

**Anil K.Narendra, J.**

This appeal arises out of the judgment and decree dated 30-6-2008 in O.S.No.76 of 2007 on the file of the Court of the Principal Subordinate Judge of Thalassery. The plaintiff is the appellant. The suit was one for specific performance of Ext.A1 sale agreement dated 23.10.2006 executed by the defendant in favour of the plaintiff in respect of the plaint schedule property. By the impugned judgment and decree the court below dismissed the suit holding that the plaintiff is not entitled for the reliefs prayed for. Aggrieved by the judgment and decree of the court below the appellant/plaintiff is before us in this appeal.

2. During the pendency of this appeal, as agreed by both the parties, the matter was referred to Sub Mediation Centre at Kannur. Both the parties have settled the entire disputes and entered into a memorandum of settlement dated 6.1.2015, reduced to writing, verified and signed by them and attested by their respective counsel. The said memorandum of agreement is forwarded to this Court along with a report dated 7.1.2015 of the Co-ordinator, Sub Mediation Centre, Kannur for recording such compromise and to dispose of this appeal in terms of the

said compromise. Paragraphs (2) to (6) of the memorandum of agreement dated 6.1.2015 entered into between the parties shall be read as part of this judgment.

3. In view of the compromise entered into between the parties, we set aside the impugned decree and judgment dated 30-6-2008 in O.S.No.76 of 2007 on the file of the Court of the Principal Subordinate Judge of Thalassery and dispose of this appeal in terms of the compromise so entered, so as to enable the parties to act in terms of the compromise recorded on 6.1.2015. Copy of memorandum of settlement dated 6.1.2015 shall be appended to this judgment.

In view of the settlement of dispute through mediation, it is ordered that the appellant shall be re-funded the whole court fee paid in this case.

The R.F.A. is disposed of.

**P.N.RAVINDRAN, JUDGE**

**ANIL K.NARENDRAN, JUDGE**

skj