

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

OP(C).No. 2118 of 2014 (O)

OS 878/2010 of II ADDL.SUB COURT,KOZHIKODE

PETITIONER(S):

- 1. JOSE PHILIP, AGED 63 YEARS
S/O.K.M PHILIP, KANAYAMPLACKAL, 9 JAYANTHI NAGAR COLONY
KALATHILKUNNU AMSOM, DESOM, KOZHIKODE.**
- 2. MARGRET JACOB,
W/O.JOSE PHILIP, KANAYAMPLACKAL
9 JAYANTHI NAGAR COLONY, KALATHILKUNNU AMSOM, DESOM
KOZHIKODE.**

**BY ADVS.SRI.GEORGE KARITHANAM VARGHESE
SRI.JOSE KURIAKOSE (VILANGATTIL)**

RESPONDENT(S):

**MUHAMMED ALI, AGED 54 YEARS
S/O.K KOYATTI HAJI, MUKATHALI HOUSE, NANMANDA AMSOM
KULATHOOR DESOM, KOZHIKODE TALUK PIN 673 613.**

**BY ADVS. SRI.K.M.FIROZ
SMT.M.SHAJNA
SRI.S.KANNAN**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 08-01-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

OP(C).No. 2118 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE PLAINT IN O.S 878/2010 OF THE SUB
COURT,KOZHIKODE DTD 03-11-2010**
- EXHIBIT P2 TRUE COPY OF THE WRITTEN STATEMENT DTD 10-02-2013**
- EXHIBIT P3 TRUE COPY OF THE COUNTER CLAIM DTD 23/8/13**
- EXHIBIT P4 TRUE COPY OF THE COUNTER STATEMENT DTD 23-09-2013**
- EXHIBIT P5 TRUE COPY OF I.A 2872/2014 IN O.S NO 878/2010 DTD 15-07-2014**
- EXHIBIT P6 TRUE COPY OF COUNTER STATEMENT IN I.A 2872/2014 IN O.S NO
878/2010 DTD 13-08-2014**
- EXHIBIT P7 TRUE COPY OF I.A 3389/2014 IN O.S NO 878/2010 DTD 26-08-2014**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.BHAVADASAN, J.

Original Petition (Civil) No.2118 OF 2014

Dated this the 8th day of January, 2015.

J U D G M E N T

The limited relief that needs to be granted in this petition is regarding Ext.P5 restoration application said to have been filed by the petitioners which was dismissed by the court below on the ground that the petitioners had not paid the cost as ordered by the court below.

2. There is lot of controversy regarding the order passed by the court below. The petitioners have a grievance that no such order directing payment of Rs.3,000/- as cost is seen mentioned in the A diary and they were not aware of that order. It is pointed out that the petitioners have sought for adjournment of the case for payment of cost as ordered by the court below and on that day, the restoration application was dismissed.

3. This Court had called for the records and it has been received. In order to shorten the litigation, it is appropriate that Ext.P5 be allowed.

In the result, Ext.P5 stands allowed on condition that the petitioners pay Rs.3,000/- (Rupees Three thousand only) to the respondent as ordered by the court below within a period of two weeks from today.

This original petition is disposed of as above.

Sd/-

P.BHAVADASAN
JUDGE

smp