

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 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

RFA.No. 727 of 2012 ()

**AGAINST THE JUDGMENT AND DECREE IN OS 770/2007 of I ADDL.SUB
COURT, THRISSUR DATED 28-01-2012**

APPELLAN/2ND DEFENDANT:

**DILEEP, AGED 52 YEARS,
RESIDING AT JYOTHIS
TATAPURAM SUKUMARAN ROAD,
ERNAKULAM DESOM AND VILLAGE
KANAYANNUR TALUK.**

BY ADV. SRI.RAJIT

RESPONDENTS/PLAINTIFF :

- 1. JOBY, AGED 63 YEARS, S/O.AKKARA JOSEPH,
RESIDING AT AVENUE ROAD
THRISSUR VILLAGE AND TALUK 680 001.**
- 2. RAJU THOMAS, AGED 57 YEARS
S/O. AKKARA JOSEPH
RESIDING AT BACK SIDE OF THIRUVANATH TEMPLE
AYYANTHOLE, THRISSUR TALUK 680 003**

R1 & 2 BY ADV. SRI.DINESH MATHEW J.MURICKEN

**THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD ON
04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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

R.F.A.No.727 OF 2012

Dated this the 4th day of March, 2015

J U D G M E N T

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**P.N.Ravindran, J.**

The appellant is the 2<sup>nd</sup> defendant in O.S.No.770 of 2007 on the file of the Court of the Additional Subordinate Judge of Thrissur. The first respondent is the plaintiff and the second respondent is the first defendant therein. The suit instituted by the first respondent for partition of the plaint schedule property into three equal shares and allotment of one such share to him was decreed after trial and a preliminary decree for partition was passed by judgment delivered on 28.1.2012.

2. Pursuant to the interim order passed by this Court, the parties appeared before the Nodal Officer, Ernakulam Mediation Centre on 10.12.2014. Thereafter mediation talks were held and ultimately the disputes between the parties were settled and a memorandum of settlement dated 19.2.2015 (going by the date beneath the signature of the learned counsel appearing for the respondents) has been placed on record. A copy of the said memorandum of settlement is appended to this judgment. As per the

preliminary decree under challenge, the property was ordered to be divided into three equal shares and all the parties were allotted one such share. As per the terms of settlement, the division is not equal. In such circumstances, in modification of the preliminary decree passed by the court below, we pass a decree in terms of the compromise entered into between the parties. It will be open to the parties to move the court below for passing a final decree in terms of the memorandum of settlement. A copy of the memorandum of settlement shall be appended to the decree as well.

The appeal is disposed of as above.

**sd/-**

**P.N.RAVINDRAN, JUDGE.**

**sd/-**

**ANIL K. NARENDRAN, JUDGE.**

Ps/5/3/15