

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

RFA.No. 460 of 2010 ()

AGAINST THE JUDGMENT IN OS NO.300/2007 of SUB COURT,ALAPPUZHA
DATED 05-06-2008

APPELLANT/1st DEFENDANT:

KRISHNAVENI.P.,
AGED 62 YEARS,
W/O LATE KAMALASANAN
RESIDING ATPULIMOOTTIL HOUSE,
PURAKADU P.O.,
AMBALAPPUZHA, ALAPPUZHA.

BY ADV. SRI.S.SANAL KUMAR

RESPONDENTS/PLAINTIFF, DEFENDANTS 2-5:

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1. SANTHOSH KUMAR.P.R.,
AGED 38 YEARS
S/O.RAJAPPAN
RESIDING ATPUTHUVAL HOUSE,
CHATHURUTHIKARA, ALAPPUZHA.
 2. SAJIMOL,
AGED 40 YEARS,
W/O. RAJU,
RESIDING AT POLICE QUARTERS, POONTHURA
TRIVANDRUM.
 3. AJIMOLE,
AGED 38 YEARS
W/O. SREEMON,
PULIMOOTTIL HOUSE,
PURAKKADU P.O., AMBALAPPUZHA
ALAPPUZHA
 4. MANJUMOLE K.,
AGED 36 YEARS
W/O SANTHOSH KUMAR
RESIDING AT PULIMOOTTIL HOUSE,
PURAKKADU P.O.,
AMBALAPPUZHA, ALAPPUZHA.

5. JYOTHIMOLE,
AGED 34 YEARS
W/O REJIMON
RESIDING ATPULIMOOTTIL HOUSE,
PURAKKADU P.O.,
AMBALAPPUZHA, ALAPPUZHA.

R1 BY ADV.SRI.T.JAYAKRISHNAN
R1 BY ADV.SRI.A.V.CHARLES

THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD ON 12-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

R.F.A. No.460 of 2010

Dated this the 12th day of February, 2015

J U D G M E N T

P.N.Ravindran, J.

The appellant is the first defendant in O.S.No.300 of 2007 on the file of the Court of the Subordinate Judge of Alappuzha. The first respondent is the plaintiff and respondents 2 to 5 are the other defendants therein. The suit instituted by the first respondent for realisation of the sum of Rs.2,00,000/- with interest and costs from the appellant and respondents 2 to 5 was decreed after trial by judgment delivered on 5.6.2008. By that decree, the first respondent plaintiff was allowed to realise the sum of Rs.2,88,357/- with interest and costs from respondents 1, 3 and 5 personally and charged on the properties attached before judgment. Hence this appeal.

2. When this appeal came up for hearing today, Sri.S.Sanal Kumar, learned counsel appearing for the appellant submitted that the first respondent plaintiff is none other than the appellant's son in law and the husband of the fourth respondent/fourth defendant and that having regard to the relationship between the parties the appellant is not desirous of prosecuting the appeal any further. The learned counsel also submitted that the appellant is being looked after

by the plaintiff and the fourth defendant and therefore, for that reason also the appellant does not wish to prosecute the appeal any further. In the light of the aforesaid submission, the appeal is dismissed as withdrawn. In such circumstances, applying the principles laid down by this Court in **Joseph v. Kerala State Electricity Board** (2012 (4) KLT 870) and on a consideration of the totality of the facts and circumstances obtaining in the case on hand, we deem it appropriate to direct that the court fee payable on the memorandum of appeal need not be recovered from the appellant, who was allowed to file the appeal as an indigent person, by order passed by this Court on 15.7.2010 in C.M.C.P. No.32 of 2009.

**P.N.RAVINDRAN,
(JUDGE)**

**ANIL K.NARENDRA,
(JUDGE)**

vps