

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

OP(C).No. 2527 of 2014 (O)

OS 725/2001 of PRINCIPAL MUNSIF COURT, KOZHIKODE-I

PETITIONER(S):

- 1. U.K. JAYARAJAN, AGED 62 YEARS
S/O. U.K.APPU, RESIDING AT 5/3131, U.K.SANKUNNI ROAD
CALICUT-1, KALATHINKUNNU AMSOM DESOM OF KOZHIKODE.**
- 2. U.K.MOHANRAJ,
S/O. U.K.APPU, RESIDING AT ULLATTIL HOUSE,
KALATHINKUNNU AMSOM DESOM, KOZHIKODE TALUK,
KOZHIKODE-673 001.**

**BY ADVS.SRI.V.V.SURENDRAN
SRI.P.A.HARISH**

RESPONDENT(S):

- 1. PRABHA SREEVALSAN,
D/O. M.K.NARAYANAN, RESIDING AT 17/17A, TEMPLE LANE
BANK ROAD, KASABA AMSOM
KARYAKUNNU DESOM OF KOZHIKODE TALUK,
CALICUT-673 001.**
- 2. PRAKAS NARAYANAN,
S/O. M.K.NARAYANAN, RESIDING AT SAGARIKA, 5/2614
PLOT NO.6, SHANTHI NAGAR COLONY, KOZHIKODE-673 001
KALATHINKUNNU AMSOM DESOM OF KOZHIKODE.**
- 3. RAMESH NARAYANAN
S/O. M.K.NARAYANAN, RESIDING AT 17/17A, TEMPLE LANE
BANK ROAD, KASABA AMSOM
KARYAKUNNU DESOM OF KOZHIKODE TALUK
CALICUT-673 001.**

**BY ADVS. SRI.T.SETHUMADHAVAN (SR.)
SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR
SMT.VANDANA MENON
SMT.N.DEEPA**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 23-01-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF THE PLAINT IN OS 725/01 FILED BY 1ST PETITIONER.
- P2 : COPY OF THE WRITTEN STATEMENT FILED BY RESPONDENTS 1 TO 3 IN OS 725/01.
- P3 : COPY OF THE PLAINT IN OS 197/10 FILED BY THE 2ND PETITIONER.
- P4 : COPY OF OP (TRANSFER) NO.393/2012 FILED BY THE 1ST PETITIONER.
- P5 : COPY OF THE ORDER IN OP (TRANSFER) 393/12.
- P6 : COPY OF THE JUDGMENT IN OPC NO.484/14 OF THIS HONOURABLE COURT.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.BHAVADASAN, J.

O.P.(C) No. 2527 of 2014

Dated this the 23rd day of January, 2015

J U D G M E N T

Under challenge is Ext.P5 order whereby the court below dismissed O.P.(Transfer) No.393/2012 on the ground that the learned District Judge did not find commonness in the two suits for transfer to one court tried jointly.

2. Keeping aloof from unnecessary facts and confining to the issue involved, the court below has observed that it feels that the latter suit will have to be stayed under Section 10 of the Code of Civil Procedure. This impliedly means that decision in an issue that is to be tried in the former suit will have a substantial and direct bearing on the issue to be decided in the subsequent suit. If that be so, it is difficult to understand how the transfer could have been avoided. Assuming that the issue may slightly different and the parties may not be exactly the same also, the fact remains that there is an element of commonness at

least as far as some of the issues are concerned. At any rate, it will be better to transfer the case to a single court so that conflict of decisions could be avoided.

In the result, the impugned order is set aside and O.S.No. 725/2001 pending before the Principal Munsiff Court-I, Kozhikode shall stand transferred to Additional Munsiff Court-I, Kozhikode where O.S.No.197/2010 is pending. The learned Munsiff, before whom the matter comes may decide whether there should be a joint trial or not. The learned Munsiff may make every attempt to dispose of the suits as expeditiously as possible, at any rate, within a period of six months from the date of receipt of a copy of this judgment.

**P.BHAVADASAN
JUDGE**

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