

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

OP(C).No. 2882 of 2014 (O)

IA.4414/2010 IN IA.2626/2010 IN OS 622/2008 of II ADDL.SUB COURT, KOZHIKODE

PETITIONER(S)/PETITIONERS 1 TO 3 AND 5 TO 11:

- 1. VELAYUDHAN, AGED 73 YEARS
S/O.KUTTIVELU, THAZHATHEL, OLAVANNA AMSOM
DESOM, KOZHIKODE TALUK.**
- 2. GANGADHARAN, AGED 62 YEARS
S/O.KUTTIVELU, THAZHATHEL, OLAVANNA AMSOM
DESOM, KOZHIKODE TALUK.**
- 3. PRABHAKARAN, AGED 52 YEARS
S/O.KUTTIVELU, THAZHATHEL, OLAVANNA AMSOM
DESOM, KOZHIKODE TALUK.**
- 4. PUSHPA, AGED 46 YEARS,
S/O VELUKUTTY, THEKKUPURAKKAL, FEROKE AMSOM
KARIKALLI DESOM, KOZHIKODE.**
- 5. SURESH BABU, AGED 42 YEARS
S/O VELUKUTTY, THEKKUPURAKKAL, FEROKE AMSOM
KARIKALLI DESOM, KOZHIKODE.**
- 6. PRAKASINI, AGED 37 YEARS
D/O.VELUKUTTY, THEKKUPURAKKAL, FEROKE AMSOM
KARIKALLI DESOM, KOZHIKODE.**
- 7. PUSHPARAJAN, AGED 33 YEARS
S/O VELUKUTTY, THEKKUPURAKKAL, FEROKE AMSOM
KARIKALLI DESOM, KOZHIKODE TALUK.**
- 8. SUSEELA, AGED 56 YEARS
D/O.KUNHUNNI, KIZHAKKEPURAKKAL, MANNUR AMSOM
DESOM KOZHIKODE TALUK.**
- 9. VIMALA, AGED 53 YEARS
D/O.KUNHUNNI, KIZHAKKEPURAKKAL, MANNUR AMSOM
DESOM, KOZHIKODE TALUK.**

BY ADV. SRI.K.M.FIROZ

OP(C).No. 2882 of 2014 (O)

RESPONDENT(S)/RESPONDENT:

THE PHARMACEUTICAL SOCIETY OF KERALA,
REG.OFFICE, VANCHIYOOR VILLAGE, THIRUVANANTHAPURAM
REP.BY ITS SECRETARY K.C.AJITH KUMAR, 46 YEARS
S/O.K.P.DAMU, PIN-695012.

BY ADV. SRI.A.RAJASIMHAN

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 07-01-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

OP(C).No. 2882 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 A TRUE COPY OF THE PLAINT IN O.S.622 OF 2008 ON THE FILES OF
SECOND ADDITIONAL SUB COURT,KOZHIKODE
- EXT.P2 A TRUE COPY OF THE AFFIDAVIT IN I.A.2626 OF 2010 IN O.S.622 OF
2008 ON THE FILES OF SECOND ADDITIONAL SUB COURT,KOZHIKODE
- EXT.P3 A TRUE COPY OF THE ORDER DATED 26.10.2010 IN I.A.2626 OF 2010 IN
O.S.622 OF 2008 ON THE FILES OF SECOND ADDITIONAL SUB
COURT,KOZHIKODE
- EXT.P4 A TRUE COPY OF THE AFFIDAVIT IN SUPPORT IN I.A.NO 4414 OF 2010
PRAYING FOR RESTORING I.A.2626 OF 2010 IN O.S.622 OF 2008 ON
THE FILES OF SECOND ADDITIONAL SUB COURT,KOZHIKODE
- EXT.P5 A TRUE COPY OF THE ORDER DATED 29.10.2010 IN O.S.622 OF 2008
ON THE FILES OF SECOND ADDITIONAL SUBN COURT,KOZHIKODE.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.BHAVADASAN, J.

Original Petition (Civil) No.2882 OF 2014

Dated this the 7th day of January, 2015.

J U D G M E N T

This original petition is directed against Ext.P5 order dated 29.10.2010 passed by the 2nd Additional Sub Court, Kozhikode in I.A.No.4414/2010 in O.S.No.622/2008.

2. The petitioners were defendants in the suit. They were set at ex parte. They filed I.A.No.2626/2010 to set aside the ex parte order. That application was dismissed for default. They then filed I.A.No.4414/2010 to restore I.A.No.2626/2010. That petition also happened to be dismissed by the court below. They assail the order in I.A.No.4414/2010 before this Court.

3. Today, when the matter was taken up for hearing, this Court is given to understand that the suit itself has been decreed ex parte.

4. It is pointed out by the learned counsel for the petitioners that the petitioners have filed a petition to set aside the ex parte decree.

5. Learned counsel appearing for the respondent points out that it is not discernible from the petition as to when the petition to set aside the ex parte decree has been filed.

6. The only prayer made by the learned counsel for the petitioners is that the petition said to have been filed for setting aside the ex parte decree may be directed to be considered by the court below untrammelled by the observations in Exts.P3 and P5 whereby two applications are earlier dismissed.

Of course, it is unnecessary to say so. But, in order to safeguard the interest of the petitioners, it is directed that if the petitioners had filed a petition to set aside the ex parte decree, that petition will be disposed of in accordance with law untrammelled by the observations contained in Exts.P3 and P5 orders.

This original petition is disposed of as above.

Sd/-

**P.BHAVADASAN
JUDGE**

smp