

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

OP(C).No. 3076 of 2014 (O)

I.A.NO.3984/2014 IN O.S.NO.1033/2012 OF THE SUB COURT, ERNAKULAM

PETITIONER(S) :

- 1. T.J.SEBASTIAN, AGED 50 YEARS,
S/O.JOSEPH, LODANKANDATHU HOUSE, KALOOR,
KOCHI-17.**
- 2. V.A.SUDHAKARAN, AGED 50 YEARS,
S/O.APPU, MANTHA STORES, PERANDOOR ROAD,
VAYANASALA JUNCTION, ELAMAKKARA, KOCHI-26**

**BY SRI.V.V.SIDHARTHAN (SENIOR ADVOCATE)
ADVS. SRI.D.G.VIPIN
SRI.KAROL MATHEWS SEBASTIAN ALENCHERRY**

RESPONDENT(S) :

- 1. KERALA VYAPARI VYAVASAYI EKOPANA SAMITHI,
ELAMAKKARA UNIT, REPRESENTED BY MR. KUNJUMON P.J,
S/O.P.V.JOSEPH, AGED 50 YEARS,THE SECRETARY,
KERALA VYAPARI VYAVASAYI EKOPANA SAMITHI,
ELAMAKKARA UNIT, VYAPARA BHAVAN, KOCHI-17.**
- 2. SHAJI SURENDRAN, AGED ABOUT 45 YEARS,
S/O.SURENDRAN, VEEPEE'S VIDEO LENDING LIBRARY,
MAMANGALAM, POTTAKUZHAY ROAD, KALOOR, KOCHI-17.**
- 3. PEOPLE URBAN CO-OPERATIVE BANK,
PUNNAKKAL BRANCH, ELAMAKKARA,
REPRESENTED BY ITS MANAGER.**

**R1 BY ADVS. SRI.K.R.VINOD
MS.JENCY SUSAN JOSE
SRI.V.SRI NATH**

R3 BY ADV. SRI.T.A.RAJAN

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 20-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

OP(C).No. 3076 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: A TRUE COPY OF THE PLAINT IN O.S.NO.1033/2012 OF THE SUB COURT, ERNAKULAM.**
- EXHIBIT P2: A TRUE COPY OF THE CERTIFIED COPY OF THE WRITTEN STATEMENT IN O.S.NO. 1033/2012.**
- EXHIBIT P3: A TRUE COPY OF THE CERTIFIED COPY OF I.A.NO.3985/2014 IN O.S.NO.1033/2012.**
- EXHIBIT P4: A TRUE COPY OF THE CERTIFIED COPY OF I.A.NO.3984/2014 IN O.S.NO.1033/2012.**
- EXHIBIT P5: A TRUE COPY THE CERTIFIED COPY OF ORDER DATED 28.10.2014 IN I.A.NO.3985/2014 IN O.S.NO.1033/2012.**
- EXHIBIT P6: A TRUE COPY OF THE CERTIFIED COPY OF ORDER DATED 28.10.2014 I.A.NO.3984/2014 IN O.S.NO.1033/2012.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.BHAVADASAN, J.

O.P.(C) No. 3076 of 2014

Dated this the 20th day of January, 2015

J U D G M E N T

Under challenge is Ext.P6 order whereby the court below dismissed an application to receive the written statement on file, only for the sole reason that it is filed after the statutory period was over.

2. Even though technically, the court may be correct in its approach, one has to remember that justice suffers by sticking on to such technicalities and parties have to suffer. There were no justification for not receiving the written statement though filed out of time and there was a petition seeking to excuse the delay.

3. In order to avoid further complication, it is felt that the impugned order is only to be set aside and the court below is to be directed to be received the written statement on file.

In the result, this petition petition is allowed and the impugned order is set aside and the court below is directed to be taken the written statement on file.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge