

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

RFA.No. 109 of 2011 ()

AGAINST THE ORDER/JUDGMENT IN OS 234/2006 of PRL.SUB COURT,TRIVANDRUM
DATED 09-07-2009

APPELLANT(S)/APPELLANTS/DEFENDANTS:

1. STATE OF KERALA,
REP. BY CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.
2. PRINCIPAL SECRETARY TO GOVERNMENT,
SC/ST DEVELOPMENT (B) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
3. DIRECTOR, SC/ST DEVELOPMENT,
NANDAVANAM, PALAYAM, THIRUVANANTHAPURAM.
4. DISTRICT OFFICER,
SC/ST DEVELOPMENT OFFICE, EAST FORT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT.LALY VINCENT.

RESPONDENT(S)/PLAINTIFF:

COL.S.VELAYUDHAN NAIR (RETD.)
S/O.LATE K.SIVARAMA PILLAI, HINDU, AGED 57 YEARS,
R/AT.TC.NO.8/1432(3), VADAKKARA NAGAR, ARAYALLOOR,
THIRUMALA P.O., THIRUVANANTHAPURAM, PIN-695 006. -- (DIED)

*ADDL. RESPONDENTS IMPEADED:

ADDL.R2: PRASANNA V.NAIR, AGED 64 YEARS,
W/O.LATE COL.S.VELAYUDHAN NAIR,
R/AT.TC.NO.8/1432(3), VADAKKARA NAGAR, ARAYALLOOR,
THIRUMALA P.O., THIRUVANANTHAPURAM, PIN-695 006.

ADDL.R3: PRAVEEN V.NAIR, S/O. LATE COL.S.VELAYUDHAN NAIR,
--DO-- --DO--

ADDL.R4: NAVEEN V. NAIR, --DO-- --DO--

*LEGAL HEIRS OF DECEASED R1 ARE IMPEADED AS ADDL.RESPONDENTS 2
TO 4 AS PER ORDER DATED 25.2.2014 IN IA 1993/12.

ADDL. R2 TO R4 BY ADV. SRI.VPK.PANICKER

THIS REGULAR FIRST APPEAL HAVING COME UP FOR ADMISSION ON
27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

vpv

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

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R.F.A.No.109 of 2011

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Dated this the 27th day of February, 2015

JUDGMENT

P.N.Ravindran, J.

The appellants are the defendants in O.S.No.234 of 2006 on the file of the Court of the Principal Subordinate Judge of Thiruvananthapuram. Supplemental respondents 2 to 4 are the legal heirs of the plaintiff (the first respondent in the appeal) who passed away on 10.5.2011 after the instant appeal was filed. Supplemental respondents 2 to 4 were impleaded as per order passed on 25.2.2014 on I.A.No.1993 of 2012. The suit instituted by the deceased plaintiff for realisation of the sum of Rs.6,00,000/- with interest and costs from the defendants was decreed in part by judgment delivered on 9.7.2009 and the plaintiff was allowed to realise the sum of Rs.4,30,000/- with interest at 12% per annum from the date of suit till realisation from the defendants and their assets. The defendants have aggrieved thereby filed this appeal.

2. The learned Special Government Pleader has filed a statement dated 28.1.2015. Paragraphs 1 and 2 thereof are extracted below:-

"1. In the above case, the appellants and the respondents had a compromise talk and

*decided to settle the matter. Accordingly Rs.1,25,000/- had been disbursed to the Decree Holder in O.S.No.234/2006 as per G.O.(Rt) No.2085/14/SCSTDD dated 11.12.2014. The Advocate for the Decree Holder received the amount for and on behalf of the Decree Holders and E.P.No.241/2010 in O.S.No.234/2006 pending before the Principal Sub Court, Thiruvananthapuram was closed on 16.12.2014. The copy of the Government Order and the receipt received by the Government from the Advocate for the Plaintiff are mentioned in this statement are produced herewith and marked as **Annexure A & B.***

2. I am instructed from the appellant that on account of the satisfaction of the Execution Petition No.241/2010 in O.S.No.234/2006 pending before the Principal Sub Court, Thiruvananthapuram, there is no need to continue with the appeal."

3. In paragraph 1 it is stated that the decree holders had pursuant to G.O.(Rt)No.2085/14/SCSTDD dated 11.12.2014, received the sum of Rs.1,25,000/- in full and final settlement of their claims under the decree and thereupon E.P.No.241 of 2010 filed by the decree holder to execute the decree in O.S.No.234 of 2006 on the file of the Court of the Principal Subordinate Judge of Thiruvananthapuram was closed on 16.12.2014. The learned Government Pleader has produced along with a memo, a copy of the aforesaid Government order as also a copy of the receipt issued by the learned counsel appearing for the decree holder on 16.12.2014 acknowledging receipt of the sum of Rs.1,25,000/- in

full and final settlement of the decree debt.

4. Sri.V.P.K.Panicker, learned counsel appearing for the supplemental respondents submitted that the decree debt stands satisfied after an out of court settlement was entered into between the parties and therefore, recording the fact that the decree has been satisfied, the appeal may be closed.

In such circumstances, this appeal is disposed of recording the submission made on either side that the decree debt in O.S.No.234 of 2006 on the file of the Court of the Principal Sub Judge, Thiruvananthapuram stands satisfied consequent on the payment by the State of Kerala of the sum of Rs.1,25,000/- to the legal heirs of the decree holder and acceptance of such payment by them.

**P.N.RAVINDRAN
JUDGE**

**ANIL K.NARENDRAN
JUDGE**

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