

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

RP.No. 1088 of 2012 () IN FAO.182/2011

AGAINST THE ORDER/JUDGMENT IN FAO 182/2011 of HIGH COURT OF
KERALA DATED 10-09-2012

REVIEW PETITIONER(S) :/PETITIONER

M.S. PURUSHAN
S/O.SANKUNNI, MADAPOLLAYIL, PATTANAKKADU MURI
PATTANAKKADU VILLAGE, CHERTHALA TALUK
ALAPPUZHA DISTRICT.

BY ADVS.SRI.S.SREEKUMAR (SR.)
SRI.C.M.MOHAMMED IQUABAL

RESPONDENT (S) :/RESPONDENT

1. V.K. PADMANABHAN DIED - LRs IMPEADED
S/O.KRISHNAN, VELAMPARAMBIL, PATTANAKKAD MURI
PATTANAKKAD VILLAGE, CHERTHALA TALUK
ALAPPUZHA DISTRICT, PIN - 688 011.

SUPPLEMENTAL R2:

SURESH BABU, S/O.V.K.PADMANABHAN,
VELAMPARAMBIL, PATTANAKKAD MURI
PATTANAKKAD VILLAGE, CHERTHALA TALUK
ALAPPUZHA DISTRICT, PIN - 688 531.

SUPPLEMENTAL R3 :

AMBIKA, W/O.MOHANAN,
AMPAZHAPPALLY HOUSE,
CHERAMANGALAM MURI,
MUHAMMA VILLAGE,
ALAPPUZHA DISTRICT, PIN - 688 531.

(SUPPLEMENTAL RESPONDENT 2 AND 3 ARE IMPEADED BEING THE LEGAL
HEIRS OF THE DECESED 1ST RESPONDENT VIDE ORDER DATED 11/6/14
IN IA 737/14 IN RP 1088/12)

BY SRI.R.AZAD BABU

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON
23-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

RP1088/12

APPENDIX

PETITIONER'S ANNEXURES

ANNEXURE I : COPY OF COMPROMISE PETITION DATED 26.05.2005
FILED IN CRL.R.P.NO.1333/05 ON THIS HON'BLE COURT.

ANNEXURE II : COPY OF ORDER DATED 27.05.2005 IN
CR.R.P.NO.1333/05 OF THIS HON'BLE COURT.

//TRUE COPY//

PA TO JUDGE.

jg-9/10

THOTTATHIL B.RADHAKRISHNAN
&
A.V.RAMAKRISHNA PILLAI, JJ.

R.P.No.1088 of 2012
in
F.A.O.No.182 of 2011

Dated this the 23rd day of September, 2015

O R D E R

Thottathil B.Radhakrishnan, J.

1. Heard.

2. This application is filed seeking review of the judgment delivered in the appeal. The matter arises in execution. The review petitioner is the judgment debtor. He filed application before the court below invoking Sections 47 and 151 of the Code of Civil Procedure, apart from Order XXI Rule 90 of the CPC. He pleaded due discharge and satisfaction and non-executability of the decree, since according to him, there was no subsisting debt in terms of the decree.

3. As noted in the order dated 11.06.2014, the issue deserves deeper consideration, more particularly in view of the decision of the Honourable Supreme Court of India in Nani Gopal Paul

v. T. Prasad Singh and Others [(1995) 3 SCC 579]. We are of the view that ends of justice require that the appeal deserves to be re-heard. The judgment sought to be reviewed is rendered without noticing the aforesaid decision and considering its applicability on the facts and circumstances of the case. Hence, in our view, the judgment sought to be reviewed is vitiated by an error apparent on the face of the record of the judgment and the same is liable to be reviewed and recalled.

In the result, this review petition is allowed and the judgment dated 10.09.2012 in F.A.O. No.182 of 2011 is reviewed and recalled.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(A.V.RAMAKRISHNA PILLAI, JUDGE)