

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 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

RFA.No. 717 of 2011 ()

AGAINST THE JUDGMENT IN OS 256/2008 of PRL.SUB COURT, KOTTAYAM
DATED 11.4.2011

APPELLANTS/DEFENDANTS:

1. P.M. CHANDY, AGED 65, S/O. MATHAI,
RESIDING AT THERAKATHU HOUSE, KODIMATHA.P.O.
KODIMATHA KARA, NATTAKOM VILLAGE, KOTTAYAM
PIN CODE-686 039.
2. ZINO C. THARAKAN, AGED 34,
RESIDING AT THERAKATHU HOUSE, KODIMATHA.P.O.
KODIMATHA KARA, NATTAKOM VILLAGE, KOTTAYAM
NOW RESIDING AT A.V.G. MOTORS, ERAYILADAVU, KOTTAYAM
PIN CODE-686 039.

BY ADVS. SRI.P.N. RAMAKRISHNAN NAIR
SRI.P. VISWANATHAN

RESPONDENT/PLAINTIFF:

ZEENA C. THARAKAN,
AGED 40, W/O. K.K. SURESH, RESIDING AT QUARTERS NO.
75, POLICE ACADEMY, THRISSUR. 680 631.

BY ADV. SRI.M.P. MADHAVANKUTTY

THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD ON
09-01-2015, ALONG WITH CO.24/2013, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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

R.F.A.No.717 of 2011

&

Cross Objection No.24 of 2013

DATED THIS THE 9th DAY OF JANUARY, 2015

JUDGMENT

ANIL K.NARENDRAN, J.

The appellants in R.F.A.No.717 of 2011 are the defendants in O.S.No.256 of 2008 on the file of the Court of the Principal Subordinate Judge of Kottayam. Cross Objection No.24 of 2013 is filed by plaintiff in the said suit filed for partition.

2. By the judgment and decree dated 11.4.2011, the trial court passed a preliminary decree for partition of the suit property by metes and bounds, holding that the plaintiff is entitled for 1/6 share from the suit property. A preliminary decree was also passed for sharing the monthly rent of ₹40,000/- now being received by the first defendant, holding that the plaintiff is entitled for 1/6 share of the same from the date of suit till actual partition is effected.

3. On 6.1.2012 this Court admitted R.F.A.No.717 of 2011 on file and granted an interim stay of actual passing of the final decree. On receipt of notice, the plaintiff entered appearance and filed Cross Objection No.24 of 2013, challenging the judgment and decree of the

trial court to the extent it relates to mesne profit and also non-appointment of an interim receiver.

4. By order dated 10.7.2014 this Court referred the parties for mediation to the Ernakulam Mediation Centre. Pursuant to the said reference, the parties have settled the dispute and entered into a memorandum of agreement dated 4.12.2014, in terms of Section 89 of the Code of Civil Procedure, 1908, read with Rules 24 and 25 of the Civil Procedure (Alternative Dispute Resolution) Rules, 2008, reduced to writing the terms of settlement, verified and signed by the parties and attested by their respective counsel. The memorandum of agreement so signed and attested is forwarded to this Court along with a report of the Mediator dated 19.12.2014, for recording the settlement and then to modify the judgment and decree passed by the Trial Court in terms of the settlement so recorded.

5. In such circumstances, recording the memorandum of agreement dated 4.12.2014 entered between the parties, R.F.A.No.717 of 2011 and Cross Objection No.24 of 2013 are disposed of. The judgment and decree dated 11.4.2011 passed by the Court of the Principal Subordinate Judge of Kottayam in O.S.No.256 of 2008 will stand modified in terms of the settlement so recorded. The parties

are at liberty to file application for passing a final decree. The memorandum of agreement dated 4.12.2014 shall form part of this judgment.

The parties are directed to suffer their respective costs.

SD/-
P.N.RAVINDRAN,
JUDGE

SD/-
ANIL K.NARENDRA,
JUDGE

dsn