

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

RFA.No.792 of 2013 (J)

AGAINST THE ORDER/JUDGMENT IN OS 78/2011 of SUB COURT, PERUMBAVOOR
DATED 11-04-2013

APPELLANT/DEFENDANT:

P.D.BAIJU, AGED 46 YEARS,
S/O.P.P.DAMODHARAN, RESIDING AT PUTHENKUDIYIL HOUSE,
7TH BY LANE, THOTTAKKATTUKARA,
ALUVA. NOW RESIDING AT C/O.SUMA, THIRUNILATH HOUSE,
INDEEVARAM HOLIDAY HOME, MUNNAR AUDIT ROAD,
ANACHAL KARA, PALLIVASAL VILLAGE,
IDUKKI TALUK AND DISTRICT.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENT/PLAINTIFF:

SAJI.N.JOHN, AGED 44 YEARS,
S/O.SCARIA, RESIDING AT VALIYAVEETIL HOUSE, KRARIELY,
KOMBANAD VILLAGE, PERUMBAVUR, PINCODE-683 546,
ERNAKULAM DISTRICT.

BY ADV. SRI.JOBY JACOB PULICKEKUDY

THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

R.F.A.No.792 of 2013

Dated this the 08th day of April, 2015

JUDGMENT

P.N.Ravindran, J.

This appeal is by the defendant in O.S.No.78 of 2011 on the file of the Court of the Subordinate Judge of Perumbavoor. It was admitted and notice ordered to the respondent on 16.12.2013. The balance court fee payable on the appeal, viz. the sum of ₹45,740/- has not so far been paid. The learned counsel for the appellant has filed a memo dated 18.3.2015 wherein it is stated as follows:-

"I am the Counsel appearing for the appellant in RFA No.792/2013. It is learnt that the appellant is no more interested in this case. Hence, it is not necessary to proceed further with the above RFA. Therefore, in the interest of justice, it is most respectfully prayed that this Honourable Court may be pleased to close the RFA No.792/2013."

It is evident from the memo filed by the learned counsel for the appellant that the appellant is not interested in prosecuting the appeal. In such circumstances, the appeal is rejected for non-

payment of the balance court fee of ₹45,740/-. Needless to say the appellant will be entitled to refund of court fee paid on the memorandum of appeal in the light of the decision of the Division Bench in **Jamal Vs. Mohammedkutty** [2003(3) KLT 803].

P.N.RAVINDRAN, JUDGE

ANIL K.NARENDHRAN, JUDGE

skj