

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE S.SIRI JAGAN
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 6TH DAY OF DECEMBER 2013/15TH AGRAHAYANA, 1935

RP.No. 996 of 2013 () IN MACA.1629/2006

AGAINST THE JUDGMENT IN MACA 1629/2006 dt. 09.06.2011

PETITIONER/APPELLANT

POULOSE @ SHIBU
S/O MATHAI, AGED 23 YEARS,
VALANKANDATHIL HOUSE, POST THRISSILERY, ANAPPARA
KARTIKULAM (VIA) MANANTHAVADY TALUK

BY ADV. SRI.N.J.ANTONY

RESPONDENTS/RESPONDENTS:

1. JISHU, AGED 22 YEARS, S/O CHANDRASEKHARA PILLAI,
CHANDRODAYAM, VAKERI,
SULTHAN BATHERY TALUK, WAYANAD DISTRICT.
2. K.MAMMU, AGE AND FATHER'S NAME NOT KNOWN
KARIYADANKANDY HOUSE, PUTHUSSERYKADAVU,
MANANTHAVADY TALUK, WAYANAD DISTRICT.
3. UNITED INDIA INSURANCE CO. LTD.,
KALPETTA

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON
06-12-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

jm/

S. Siri Jagan & K. Ramakrishnan, JJ.

C.M. Appl. No. 2725 of 2013
and
R.P. No. 996 of 2013
in
M.A.C.A. 1629 of 2006

Dated this, the 6th day of December, 2013.

O R D E R

Siri Jagan, J.

M.J.C. No. 564/2013 is filed for restoring the appeal which was dismissed on 9.6.2011 with a petition to condone delay of 856 days in filing the same. On going through the judgment dated 9.6.2011, we find that the appeal was not dismissed for default but for non-prosecution. That being so, the proper remedy is to file a petition to review the judgment. In the above circumstances, we suo motu convert the M.J.C. into a petition to review the judgment dated 9.6.2011. Number the M.J.C. as R.P. For that purpose, production of certified copy of the judgment is dispensed with.

Although we do not find any merit in the averments in the affidavit accompanying the petition, taking a lenient view, we condone the delay, recall the judgment dated 9.6.2011 and restore the appeal to file, on condition that the petitioner pays Rs. 4,500/- as costs to the Kerala State Mediation and Conciliation Center and produces proof of payment within one week, failing which the C.M.App. No. 2725/2013 and the Review Petition would stand dismissed. This is subject to the further

condition that the appellant shall cure the defect noted by the registry within one week.

The review petition is disposed of as above.

Sd/- S. Siri Jagan, Judge.

Sd/- K. Ramakrishnan, Judge.

Tds/