

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT:
THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937
RSA.No. 1391 of 2012 ()

AGAINST THE ORDER/JUDGMENT IN AS 368/2005 of ADDL. DISTRICT COURT,
TIRUR DATED 14-10-2008
AGAINST THE ORDER/JUDGMENT IN OS 420/1998 of PRL.SUB COURT,TRIVANDRUM
DATED 21-12-2004

APPELLANT(S)/APPELLANTS/RESPONDENTS 2 TO 7/DEFENDANTS 1,2 AND 4-7:

1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM.
2. SECRETARY
LOCAL ADMINISTRATION, GOVERNMENT OF KERALA
THIRUVANANTHAPURAM.
3. DIRECTOR GENERAL OF POLICE
GOVERNMENT OF KERALA, DGP OFFICE, VAZHUTHACAUD
THIRUVANANTHAPURAM.
4. COMMISSIONER OF POLICE
THIRUVANANTHAPURAM CITY POLICE
COMMISSIONER'S OFFICE, VAZHUTHACAUD
THIRUVANANTHAPURAM.
5. SECRETARY
PUBLIC WORKS DEPARTMENT, THIRUVANANTHAPURAM.
6. EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT, GOVERNMENT OF KERALA
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.JOBY JOSEPH

RESPONDENT(S) :

1. P. PADMANABHAN,
S/O. P.RAMESHAN, RESIDING AT TC 24/1226, "PADMAPURAM"
VALIYASALA, THIRUVANANTHAPURAM-, CHALAI P.O.,
PIN-695 036.
 2. THE SECRETARY,
CORPORATION OF TRIVANDRUM, CITY CORPORATION OFFICE,
THIRUVANANTHAPURAM P.O., PIN-695 001.
 3. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VYDYUTHY BHAVAN, PATTOM
THIRUVANANTHAPURAM, PIN-695 004.
- R2 BY ADV. SRI.N.NANDAKUMARA MENON (SR.)
R2 BY ADV. SRI.P.K.MANOJKUMAR
R3 BY ADV. SRI.K.M.SATHYANATHA MENON,SC,KSEB
R1 BY ADV. SRI.R.S.KALKURA

THIS REGULAR SECOND APPEAL HAVING BEEN FINALLY HEARD ON
07-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

R.S.A.No.1391 of 2012

Dated this the 7th day of September , 2015

JUDGMENT

Defendants 1, 2 and 4 to 7 in O.S.No.420 of 1998 on the file of the Sub Court, Thiruvananthapuram have come up in this second appeal, challenging the decision in A.S.No.368 of 2005 on the file of the District Court, Thiruvananthapuram.

2. The suit O.S.No.420 of 1998 referred to above was one instituted by the first respondent for damages against the appellants and the Corporation of Thiruvananthapuram. The Corporation of Thiruvananthapuram was the third defendant in the suit. The suit was decreed on 21.12.2004, permitting the plaintiff to recover a sum of Rs.82,500/- by

way of damages from the defendants. The decision of the trial court was challenged by the third defendant before the appellate court in A.S.No.368 of 2005. The appellants have not challenged the decision of the trial court in appeal. The appellate court, on a re-appraisal of the materials on record, allowed the appeal filed by the third defendant and reversed the decision of the trial court in so far as it relates to the third defendant.

3. As noticed above, the appeal on which the impugned judgment was rendered was an appeal filed by the third defendant. The scope of the said appeal, in the circumstances, was as to the correctness of the decree passed by the trial court as against the third defendant. As per the judgment impugned in this appeal, the appellate court has only considered the liability of the third defendant to compensate the plaintiff and having found that the third defendant is not liable to compensate the plaintiff,

exonerated them from the liability under the decree. As the appellants have not challenged the decision rendered by the trial court against them in appeal, the liability of the appellants under the decree was never the subject matter of the appeal before the lower appellate court. As such, the appellants cannot have any grievance against the decision of the appellate court impugned in this appeal. In the circumstances, this second appeal is devoid of merits and the same is, accordingly, dismissed.

P.B.SURESH KUMAR, JUDGE.

smm