

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937

SA.No. 230 of 1997

AGAINST THE JUDGMENT IN AS 26/1995 of DISTRICT COURT,
KASARAGOD.

AGAINST THE JUDGMENT IN O.S. 387/1989 of PRINCIPAL MUNSIF
COURT, KASARAGOD.

APPELLANT(S)/RESPONDENTS 1 TO 11 IN THE DIST. COURT/ PLAINTIFF
IN THE MUNSIF COURT:

1. BHAGEERATHI, W/O. LATE K. RAMACHANDRA,
RESIDING AT JALY OF ARIKKADY VILLAGE,
KASARAGOD TALUK.
2. LINGAPPAYYA OF -DO- -DO-
3. DAMODARA OF -DO- -DO-
4. RADHAKRISHNA OF -DO- -DO-
5. CHNADRAHASA OF -DO- -DO-
6. YOGISHA OF -DO- -DO-
7. BHASKARA OF -DO- -DO-
8. KAMALAKSHA OF -DO- -DO-
9. JALAJAKSHI OF -DO- -DO-
10. SURESHA OF -DO- -DO-
11. SHARADA OF -DO- -DO-

BY ADVS. SRI.KODOTH SREEDHARAN
SRI.P.GOPINATHAN

RESPONDENT(S)/APPELLANT & 12TH RESPONDENT IN THE DIST.
COURT/DEFENDANTS IN THE MUNSIF COURT:

1. RAMAKRISHNA, SON OF GOPALA ACHARY,
CULTIVATOR AND RATION SHOP EMPLOYEE,
KELAGINA MANE OF ARIKKADY VILLAGE,
KASARAGOD TALUK.
2. KESHAHA, S/O. GOPALA ACHARY KELAGHINA
MANE OF ARIKKADY VILLAGE,
KASARAGOD TALUK. (DIED)

ADDL. R3 TO R5 IMPEADED.

3. KAMALA, W/O. KESAVA ACHARIYA (LATE),
R/AT A1 MADEENA QUARTERS,
PRAGATHI NAGER, KOPPALA ROAD,
SHIRIYA POST, KASARAGOD DISTRICT.
4. SUJATHA, D/O. KESAVA ACHARIYA (LATE),
R/AT A1 MADEENA QUARTERS,
PRAGATHI NAGER, KOPPALA ROAD,
SHIRIYA POST, KASARAGOD DISTRICT.
5. HARI PRASAD, S/O. KESAVA ACHARIYA (LATE),
R/AT A1 MADEENA QUARTERS,
PRAGATHI NAGER, KOPPALA ROAD,
SHIRIYA POST, KASARAGOD DISTRICT.

ADDL. R3 TO R5 IMPEADED BEING THE LRS OF DECEASED
R2 AS PER ORDER DTD. 24.9.2013 IN I.A. 258/13.

R1 BY ADV. SRI.K.G.GOURI SANKAR RAI

THIS SECOND APPEAL HAVING BEEN FINALLY HEARD ON
04-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

P. BHAVADASAN, J.

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S.A No. 230 of 1997
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Dated this the 4th day of September, 2015.

JUDGMENT

This Second Appeal was re-opened in the light of the fact that respondent No.2 has expired while the matter was pending before this Court and without noticing the death of the said person the Second Appeal was disposed of remanding the matter to the lower appellate court. But when it reached the lower appellate court, the mistake was noticed and it appears that the District Court disposed of the appeal which could not have been done in law. It ought to have sent a report to this Court informing this Court about the death of the second respondent in the Second Appeal during the pendency of the appeal before this Court. Hence the judgment of the lower appellate court dated 15.6.2012 is set aside.

2. Appellants have filed necessary petitions for impleading the legal heirs of

respondent No.2 in the second appeal and those petitions have been allowed.

This Court finds no reason to take a different view than the earlier one on the merits of the Second Appeal. The said judgment shall stand and the lower appellate court is directed to comply with the remand order passed by this Court on 22.7.2010. The parties will appear before the lower appellate court on 6.10.2015. The lower appellate court shall make every endeavour to dispose of the matter as expeditiously as possible, at any rate, within three months from the date of appearance of the parties.

sb.

P. BHAVADASAN,
JUDGE