

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.T. SANKARAN
&
THE HONOURABLE MR. JUSTICE P.D. RAJAN

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

RP.No. 60 of 2015 IN CMCP.NO.52/2014

IN R.F.A.NO.759 OF 2014

AGAINST THE ORDER IN CMCP.NO.52/2014 IN RFA.NO.759/2014
OF THE HIGH COURT OF KERALA DATED 18-11-2014

REVIEW PETITIONER: RESPONDENT: RESPONDENT:

CANARA BANK MANAGER,
WANDOOOR BRANCH.

BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI

RESPONDENT: PETITIONER: 1ST APPELLANT:

N.PONNAMMA,
PROPRIETRIX OF EMBASSY OIL MILL,
ANIMANAL P.O., TUVVUR VILLAGE,
MALAPPURAM DISTRICT.

BY N. PONNAMMA (PARTY IN PERSON)

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION
ON 21-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T.SANKARAN & P.D.RAJAN, JJ.

R.P. NO.60/2015 in CMCP.NO.52/2014
IN
R.F.A. NO. 759 OF 2014

Dated this the 21st day of January, 2015

ORDER

K.T.Sankaran, J.

As per the order dated 18.11.2014, we allowed the application filed by the appellant under Order XLIV Rule 1 of the Code of Civil Procedure and the appellant was permitted to file the appeal as an indigent person. The Review Petition is filed by the respondent in the appeal to review that order on the ground that no notice was given to the Government with respect to the application and the procedural formalities have not been complied with.

2. From the proceedings, it is seen that a Division Bench of this Court as per the order dated 1.9.2014 directed the learned Government Pleader to get instructions from the Tahsildar concerned in respect of the averments in the application filed to allow the

appellant to file the appeal as an indigent person. No report was filed by the Tahsildar. In the order sought to be reviewed, we mentioned that no report was filed by the Tahsildar or any other Revenue Official. Even now, no report by the Tahsildar is available. Learned Government Pleader has not received any instruction indicating that the appellant is possessed of sufficient means to pay the court fee.

3. The question of payment of court fee is essentially a matter between the appellant and the State. Of course, the respondent in the appeal is entitled to point out that the appellant is not an indigent person and as such she should not be allowed to prosecute the appeal as an indigent person. Even in the Review Petition, there is no averment that the appellant is possessed of sufficient means to pay the court fee. More over, any party to the appeal or the Government Pleader will be entitled to file an application under Rule 9 of Order XXXIII read with Rule 1 of Order XLIV of the Code of Civil Procedure to withdraw the permission granted to the appellant to file the appeal as an indigent person on the ground that she should not be allowed to continue to prosecute the appeal as an indigent

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person. So far, no such application has been filed. We do not think that it is necessary to entertain the Review Petition on hyper-technical grounds.

Reserving the right of the respondent in the appeal (review petitioner) to move under Rule 9 of Order XXXIII read with Rule 1 of Order XLIV, this Review Petition is dismissed.

(K.T.SANKARAN)
Judge

(P.D.RAJAN)
Judge

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