

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

RP.No. 159 of 2015 (O) IN OP(C).2692/2014

AGAINST THE JUDGMENT IN OP(C) 2692/2014 of HIGH COURT OF KERALA
DATED 27-01-2015

REVIEW PETITIONER/PETITIONER:

CHEMBILALI NASAR, AGED 41 YEARS,
S/O. KUNHI KUTTYALI, SAFNA MANZIL,
P.O. ELAMBARA, VIA. EDAYANNUR,
KANNUR DISTRICT.

BY ADV. SRI.P.U.SHAILAJAN

RESPONDENTS/RESPONDENTS:

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1. UPPIKKARAMBATH MUSTAFA, S/O. ABOOTTY,
AGED 54 YEARS, RESIDING AT SHIBIN MAHAL,
KOLARI AMSOM, KALLUR DESOM,
IRITTY TALUK, KANNUR DISTRICT - 670 702.
 2. K.T. MUHAMMADKUNHI, AGED 54 YEARS,
S/O. HARIS, NEAR JUMA MAZJID,
P.O. MATTANUR, KANNUR DISTRICT - 670 702.

BY SRI.CIBI THOMAS
BY SRI.K.KUNHIKRISHNAN

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
18-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.BHAVADASAN, J.

**Review Petition No.159 OF 2015 IN
O.P.(C) No.2692 OF 2014**

Dated this the 18th day of February, 2015.

O R D E R

Under the guise of review, an attempt is being made to have the appeal re-heard. It cannot be permitted. The same contentions which were taken at the time of hearing of the original petition were re-iterated at the time of hearing of review petition.

2. There is factual mistake committed by this Court. This Court observed that Ext.P5 was not produced before the courts below. Records show that it had been produced. This factual mistake has no bearing on the decision since that document was discussed by this Court in paragraph 17 of the judgment. It is not as if that this Court was not aware of the existence of such a document or that this Court omitted to discuss the same. This Court had considered the impact of that document on the present proceedings.

3. Another contention that is very strongly taken is regarding the effect of Ext.P6 which is a plan said to have been submitted by the respondents before the authorities concerned for putting up a construction.

4. The grievance now voiced is that though Ext.P6 was not produced before the trial court, it was produced before the lower appellate court which has not considered Ext.P6 in the proper perspective. It is contended that in the review petition while an argument was addressed with regard to Ext.P6, this Court was not able to comprehend the same and has not appreciated the same.

5. The above contention is also factually incorrect. This Court, in paragraph 12 of the judgment, has considered this aspect. Argument was also addressed on the basis of the decision referred to by the petitioner and contained in the judgment that mandatory injunction could not have been granted. That aspect has been considered by this Court in paragraphs 16, 17, 18, 19 and 20 of the judgment and this Court chose to retain the order passed by this Court while disposing of

the original petition filed by the petitioner for early disposal of the CMA.

It therefore follows that there is absolutely no merit in any of the contentions raised by the petitioner and it is an ingenuous method adopted to rehear the appeal.

This review petition is dismissed.

Sd/-

**P.BHAVADASAN
JUDGE**

smp

// True Copy //

P.A. to Judge.