

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

RP.No. 522 of 2015

SA 540/1992, DATED 10-11-2003

REVIEW PETITIONER(S)/NOT PARTIES IN THE SECOND APPEAL:

1. SUDHEEPKUMAR,
S/O. MADHAVAN, VIZHNU BHAVANAM, PERINGALA P.O.
KAYAMKULAM-690559.
2. REMA BHAI,
W/O. SUDHEEPKUMAR, VIZHNU BHAVANAM, PERINGALA P.O.
KAYAMKULAM-690559.

**BY ADVS.SRI.P.B.SAHASRANAMAN
SRI.T.S.HARIKUMAR
SRI.K.JAGADEESH**

**RESPONDENT(S)/APPELLANT-RESPONDENTS AND LEGAL HEIRS OF RESPONDENTS
2 AND 3:**

1. MADHAVAN MOHANAN,
NALLOTTIL KIZHAKKATHIL FROM KOTTAYADIYIL,
PERINGALA MURI, KAYAMKULAM VILLAGE.
2. DEVAKI KUNJAMMA ANANDAVALLY KUNJAMMA,
VADAKKE MANNAMPALLY KIZHAKKETHIL FROM
AMBAZHIVELIL THATTARETHU
PERINGALA MURI, KAYAMKULAM VILLAGE.
3. NARAYANA PILLA GOPALAKRISHNAN UNNITHAN,
THATTARETHU VEETIL (DIED) PERINGALA MURI
KAYAMKULAM VILLAGE.
- * 4. NARAYANA PILLAI MURALEEDHARAN UNNITHAN,
ARAMPIL HOUSE FROM THATTARETHU VEETIL, PERINGALA MURI
KAYAMKULAM VILLAGE. (DELETED)

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5. PADMAKUMARY KUNJAMMA,
W/O. GOPALAKRISHNAN UNNITHAN,
THATTARETHU VEETIL, PERINGALA MURI,
KAYAMKULAM VILLAGE.

6. PRASAD,
S/O.GOPALAKRISHNAN UNNITHAN,
THATTARETHU VEETIL, PERINGALA MURI,
KAYAMKULAM VILLAGE.

* 7. SIVASANKARA PILLAI,
S/O.GOPALAKRISHNAN UNNITHAN,
THATTARETHU VEETIL, PERINGALA MURI,
KAYAMKULAM VILLAGE. (DELETED)

8. MANJU NATH,
S/O.GOPALAKRISHNAN UNNITHAN,
THATTARETHU VEETIL, PERINGALA MURI,
KAYAMKULAM VILLAGE.

9. SATHIKUMARY KUNJAMMA,
W/O.MURALEEDHARAN UNNITHAN, ARAMPIL HOUSE,
FROM THATTARETHU VEETIL, PERINGALA MURI
KAUAMKULAM VILLAGE.

10. VEENA MURALI UNNITHAN,
ARAMPIL HOUSE, FROM THATTARETHU VEETIL,
PERINGALA MURI, KAYAMKULAM VILLAGE.

11. SANGEETHA MURALI,
D/O. MURALEEDHARAN UNNITHAN, ARAMPIL HOUSE,
FROM THATTARETHU VEETIL, PERINGALA MURI,
KAYAMKULAM VILLAGE. (DELETED)

RESPONDENTS 4,7 & 11 DELETED FROM THE PARTY ARRAYT AT THE RISK
OF THE PETITIONER AS PER ORDER DATED 16/1/15 IN IA.92/2015.

R2 BY ADVS. SRI.R.RAJASEKHARAN PILLAI
SMT.SABINA JAYAN
BY SRI.SUBHASH CYRIAC

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 30-09-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

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P.B.SURESH KUMAR, J.

R.P.No.522 of 2015

in

S.A.No.540 of 1992

Dated this the 30th day of September, 2015

ORDER

The petitioners seek review of the judgment in S.A.No.540 of 1992. The petitioners were not parties to the second appeal.

2. S.A.No.540 of 1992 arises from the suit O.S.No.35 of 1985. The suit was one for declaration of title and recovery of possession of the plaint schedule property measuring 1 cent. The first defendant alone contested the suit. The suit was dismissed by the trial court. The plaintiff challenged the decision of the trial court in A.S.No.87 of

1990. The appellate court reversed the decision of the trial court and decreed the suit. The first defendant challenged the decision of the appellate court in S.A.No.540 of 1992. S.A.No.540 of 1992 was dismissed for default on 10.11.2003. According to the review petitioners, the first defendant in the suit sold 10 cents of property to them including the plaint schedule property in the year 2001 and they came to know of the decree passed by the appellate court against the first defendant only when the Amin deputed from the execution court came to the suit property to execute the decree. The petitioners are, therefore, aggrieved by the decision in S.A.No.540 of 1992.

3. Heard the learned counsel for the review petitioners.

4. As noticed above, S.A.No.540 of 1992 is preferred against the decision in A.S.No.87 of 1990, by which the appellate court decreed O.S.No.35 of 1985 reversing the

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in

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S.A.No.540 of 1992

decision of the trial court. There was no adjudication at all by this Court in S.A.No.540 of 1992 as to the correctness of the decision in A.S.No.87 of 1990. On the other hand, as noticed above, the said second appeal was dismissed for default. In so far as there was no adjudication as to the rights of the parties in the second appeal, it cannot be said that the review petitioners are aggrieved by the decision in the second appeal. As such, this review petition is dismissed as devoid of merits without prejudice to the rights, if any, of the review petitioners to initiate appropriate proceedings for redressal of their grievance.

P.B.SURESH KUMAR, JUDGE.

smm