

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

RFA.No. 796 of 2014 ()

I.A.1566/2012 (F.D) IN O.S.179/2010 OF the ADDITIONAL SUB COURT,
NORTH PARAVUR DATED 07.06.2013

APPELLANT/IST DEFENDANT:

T.A.FRANCIS @ SUNNY
S/O LATE T.C.ANTONY, THERULLY HOUSE, MANAKKAPPADY
ASOKAPURAM, ALUVA, ERNAKULAM DISTRICT.

BY ADVS.SRI.V.K.SIDHIQUE
SMT.SAJITHA SIDHIK
SRI.M.M.ALIKUNJU

RESPONDENTS/PLAINTIFFS AND 2ND DEFENDANT:

1. MARY ANTONY
S/O LATE T.C.ANOTNY, THERULLY HOUSE, MANAKKAPPADY
ASOKAPURAM, ALUVA, ERNAKULAM DISTRICT - 682102
REP. BY POWER OF ATTORNEY HOLDER GRACY XAVIER
W/O MR. XAVIER, THYPARAMBIL VEEDU, CHIRAKKAKOM
VARAPUZHA P.O., ERNAKULAM DISTRICT-683512

2. GRACY XAVIER
W/O MR. XAVIER, THYPARAMBIL VEEDU, CHIRAKKAKOM
VARAPUZHA P.O., ERNAKULAM DISTRICT-683517

3. SISTER ALMY
C.M.C. CONVENT, VAZHAKKULAM P.O., MUVATTUPUZHA
REP. BY POWER OF ATTORNEY HOLDER GRACY XAVIER
W/O MR. XAVIER, THYPARAMBIL VEDU, CHIRAKKAKOM
VARAPUZHA P.O., ERNAKULAM DISTRICT- 683517

4. RENI JOMY
W/O JOMY, MECHERY HOUSE, PACHALAM
ERNAKULAM DISTRICT-683511

5. SOPHY FRANCIS
W/O FRANCIS, OOKKAN HOUSE, SOUTH ANGAMALY
KORATTY-683511

6. T.A.CHARLEY
S/O LATE T.C.ANTONY, THERULLY HOUSE, MANAKKAPPADY
ASOKAPURAM, ALUVA, ERNAKULAM.

R1,R2,R4 BY ADV. SRI.G.RAJAGOPAL
R1,R2,R4 BY ADV. SMT.S.LEELALAKSHMI
R1,R2,R4 BY ADV. SMT.N.RENJINEE DEVI

THIS REGULAR FIRST APPEAL HAVING COME UP FOR ADMISSION ON
29-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**THOTTATHIL B. RADHAKRISHNAN &
SUNIL THOMAS, JJ.**

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C.M.Appl.No.645 of 2014 and R.F.A.No.796 of 2014

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Dated this the 29th day of May, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

Heard learned counsel for the appellant and the learned counsel for the contesting respondents.

2. This appeal against the final decree comes up with an application seeking condonation of delay of 459 days. We have looked into the substance of the decree and the nature of contest levied by the appellant before the court below. Notwithstanding the fact that we do not see any merit in this appeal as such, the affidavit filed in support of the C.M.Application seeking condonation of delay of 459 days shows that the intention to file an appeal generated during the final decree proceedings, particularly after the Commissioner had visited the property for effecting partition. The ground urged to condone delay is that there is a proposal to acquire the property in connection with Sea Port-Air Port road. On the face of the stiff objection raised by the opposite side, there is no material to show that the property is notified at any point of time for

acquisition. Not only that, even if there was acquisition, there cannot be an indefinite wait for the result of such acquisition proceedings. We see no ground to condone the delay. Hence, the C.M.Application fails.

In the result, C.M.Application is dismissed. Consequently, R.F.A. is also dismissed.

Sd/-

THOTTATHIL B. RADHAKRISHNAN
Judge

Sd/-

SUNIL THOMAS
Judge

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