

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

RP.No. 823 of 2015 () IN MFA.91/2002

AGAINST THE JUDGMENT IN MFA 91/2002 of HIGH COURT OF KERALA DATED
28.02.2008

REVIEW PETITIONER/3RD APPELLANT IN M.F.A:

AYISHA
D/O.BAPPUTTY, P.O.KOTTARAKUNNU, VIA-VELLAMUNDA
WYNAD DISTRICT, NOW RESIDING AT KALLAMPALLL HOUSE
PURAKKAD.P.O., AMBALAPPUZHA(VIA), ALAPPUZHA DISTRICT
PIN-688 561.

BY ADV. SRI.C.M.KAMMAPPU

RESPONDENT/RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. THE CUSTODIAN AND CONSERVATION OF FORESTS
OLAVAKKODE CIRCLE, "ARYA BHAVAN", FOREST COMPLEX
RAILWAY COLONY, OLAVAKKODE, PALAKKAD.

3. PATHUTTY
W/O.BAPPUTTY, P.O.KOTTARAKUNNU, VIA-VELLAMUNDA
WYNAD DISTRICT.

4. ALI, AGED 42 YEARS
S/O.BAPPUTTY, P.O.KOTTARAKUNNU, VIA-VELLAMUNDA
WYNAD DISTRICT, NOW RESIDING AT CHERIYA THAYYIL
KUMMANKODE, NADAPURAM, KOZHIKODE DISTRICT.

5. MUHAMMED
S/O.BAPPUTTY, P.O.KOTTARAKUNNU, VIA-VELLAMUNDA
WYNAD DISTRICT, NOW RESIDING AT M R QUARTERS
P.O.PANOOR, THALASSERY, KANNUR DISTRICT.

6. NURUDHIN
S/O.BAPPUTTY, P.O.KOTTARAKUNNU, VIA-VELLAMUNDA
WYNAD DISTRICT, NOW RESIDING AT THEKEYIL HOUSE
MUTHAVALOOR, KONDOTTY, MALAPPURAM DISTRICT.

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7. REHMATH
D/O.BAPPUTTY, P.O.KOTTARAKUNNU, VIA-VELLAMUNDA
WYNAD DISTRICT, NOW RESIDING AT KALLUVEETIL HOUSE
KOARANGAD.P.O., T T MUKKU, VALIAPPIL
THAMARASSERY, WAYANAD DISTRICT.

R1 AND R2 BY SENIOR GOVERNMENT PLEADER SRI. R. PADMARAJ
R3 TO R7 BY SRI.V.V.SURENDRAN

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 09-10-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.R. RAMACHANDRA MENON
&
K. HARILAL, JJ.**

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C.M. Appln No. 3140 of 2015  
and  
R.P. No. 823 of 2015  
in M.F.A. No. 91 of 2002  
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Dated, this the 9th day of October, 2015

ORDER

Ramachandra Menon, J.

This review petition is stated as filed being aggrieved of the verdict dated 28.02.2008 in M.F.A. No. 91 of 2002 passed by this Court. There is a delay of 2734 days in filing the review petition and hence the same is sought to be condoned by filing C.M. Appln. No. 3140 of 2015.

2. The explanation offered, as it appears from paragraph 3 of the affidavit filed in support of the C.M. Application, reads as follows :

"I submit that the above MFA was filed in the year 2002. Thereafter the case was pending before this Court for a period of 6 years. The case was finally heard on 28.02.2008 and this Hon'ble Court dismissed

the M.F.A. as per the impugned order. However, the appellants were unaware about the dismissal of the appeal. I am an uneducated lady and could not understand the intricacies involved in the proceedings before this Hon'ble Court. Hence, I was of the bonafide belief that our counsel will intimate us the status of our appeal in time. But, in the month of November, 2014 when I approached our counsel who was representing us in the above appeal and enquired about the status of the appeal, he told me that the appeal had already been dismissed. He also told me that though he tried to contact us, but he failed in his attempts. The communications sent by him also had not received by me due to change in the residential address. Immediately on coming to know about the order of this Hon'ble Court, I asked our counsel about the further course of action to be taken in the matter and on his advise I approached a counsel practising in the Hon'ble Supreme Court for preferring an appeal before the Hon'ble Supreme Court against the said order of this Hon'ble Court. He in fact told me to obtain the certified copy of the lower court order and records. Thereafter I made

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arrangements to obtain the certified copies as required by the counsel. On receipt of the certified copies of the document and again approached the counsel. He on perusal of the records advised me to file a review petition before this Hon'ble Court as there is an error apparent on the face of the order passed by this Hon'ble Court. But, in the meantime, due to financial stringencies I could not give necessary instructions to the counsel to file review petition. Hence there occurred a delay of 2734 days in filing the above Review Petition. There is no willful latches or negligence on my part in not appearing this Hon'ble Court on time. But, the delay was occurred only due to the unavoidable circumstances stated above."

3. Heard the learned counsel for the review petitioner at length.

4. After hearing and after going through the contents of the affidavit filed in support of the application, we find that the explanation offered for the delay of 7½ years in filing the review petition is not liable to be reckoned as a reason at all; much less a satisfactory explanation. There is no merit in the C.M. Appln.

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Accordingly, the C.M. Application stands dismissed and as a natural
consequence the review petition as well.

Sd/-
P. R. RAMACHANDRA MENON,
JUDGE

sd/-
K. HARILAL,
JUDGE

kmd

/True copy/

P.A. to Judge