

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

RP.No. 846 of 2015
IN WA.898/2015

AGAINST THE JUDGMENT IN WA 898/2015 of HIGH COURT OF KERALA DATED
02-07-2015

REVIEW PETITIONERS/RESPONDENT 1 & 2:

1. MH10A MYSTIC HEIGHT OWNERS' ASSOCIATION
REGD OFFICE AT GROUND FLOOR, SHWAS MYSTIC HEIGHTS 1
KANIYAMPUZHA ROAD, EROOR PO, TRIPUNITURA
REPRESENTED BY ITS JOINT SECRETARY CAPT.(RETD)AYYAPPAN
SATISH PILLAI , AGED 60 YEARS,S/O. LATE K. AYYAPPAN PILLAI,
38/2363 F, BL BLUE MOON APARTMENTS, GANDHI NAGAR
KALOOR PO, ERNAKULAM-682 017
2. CAPT.(RETD) AYYAPPAN SATISH PILLAI,
S/O LATE K. A. AYYAPPAN PILLAI, 38/2363 F
BL BLUE MOON APARTMENTS GANDHI NAGAR, KALOOR PO
ERNAKULAM-682 017

BY ADVS.SRI.T.KRISHNANUNNI (SR.)
SRI.N.M.MADHU

RESPONDENTS/APPELLANT AND RESPONDENTS 3 TO 5:

1. PRAKASH KARUNAKARAN NAIR, AGED 58YEARS,
S/O KARUNAKARAN NAIR, MYSTIC HEIGHTS PHASE 2
FLAT NO. 4 C, KANIYAMPUZHA ROAD, VYTTILA
COCHIN-682 019
2. THE EXECUTIVE ENGINEER
KERALA STATE ELECTRICITY BOARD, TRIPUNITHURA-62 301
3. THE ASSISTANT EXECUTIVE ENGINEER
KERALA STATE ELECTRICITY BOARD , EROOR
TRIPNITURRA-682 301

4. M/S. SHWAS HOMES PRIVATE LIMITED
GROUND FLOOR, MYSTIC HEIGHTS, KANIYAMPUZHA ROAD
EROOR VILLAGE
KANAYANNUR TALUKE RYAKULAM DISTRICT-682 306
REPRESENTED BY ITS DIRECTOR SREENI PARAMESWARAN

R4 BY ADV. SRI.S.VINOD BHAT
R4 BY ADV. SRI.LEGITH T.KOTTAKKAL
R1 BY SRI.G.SREEKUMAR (CHELUR)
R BY SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
09-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.R. RAMACHANDRA MENON
&
BABU MATHEW P. JOSEPH, JJ.**

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R.P.No. 846 of 2015

in

W.A. No. 898 of 2015

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Dated this the 9th day of November, 2015

ORDER

P.R. Ramachandra Menon,J.

The review petitioners (respondents 1 and 2 in the writ appeal) are before this Court apprehending that the dismissal of the writ petition with a cost of Rs.25,000/- ordered by this Court may be misinterpreted by the concerned parties in the pending proceedings before the civil court and hence a clarification is sought for to the effect that the observations made in the judgment in writ appeal will not affect the consideration of the issues involved in O.S.No.1005 of 2011 pending before the Munsiff Court, Ernakulam and also in R.S.A.No.576 of 2014 pending before this Court.

2. Heard Sri. T. Krishnanunni, learned senior counsel appearing for the review petitioners, Sri. G. Sreekumar, learned

counsel appearing for the 1st respondent and Sri. S.Vinod Bhat, learned counsel appearing for the 4th respondent. After hearing both the sides and after going through the judgment, we find that the verdict was passed by this Court deprecating the course and conduct of the parties who approached this Court by suppressing the material facts and obtaining favourable orders. It was in the said circumstances that the interference was declined and the judgment passed by the learned single Judge was set aside, dismissing the writ petition with cost of Rs.25,000/-.

3. The observations made were only to sustain the said finding and the reasoning, referring to the proceedings pending before the civil court as well as before this Court, especially with regard to the nature of prayers raised in relief Nos. L & N, as observed by paragraph 14 of the judgment in W.A.No.898 of 2015. In other words, this Court did not intend to deal with the rights and liberties of the parties concerned. The issues pending consideration before the appropriate court are to be considered and decided on the basis of the pleadings and evidence. This Court makes it clear that the judgment in the writ appeal was never intended to declare the rights and liberties of the parties

concerned. It is open for the parties to substantiate the facts and figures before the appropriate court based on the pleadings and evidence as aforesaid.

The review petition is disposed of accordingly.

Sd/-
P.R. RAMACHANDRA MENON
JUDGE

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

ks.

True copy

P.S. (Hr.Gr.)To Judge