

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE P.D.RAJAN

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

R.P.No. 194 of 2014 IN Mat.Appeal.309/2013

AGAINST THE JUDGMENT IN Mat.Appeal 309/2013 of HIGH COURT OF KERALA DATED 23-05-2013

REVIEW PETITIONER/APPELLANT:

GEORGE AGED 52 YEARS
S/O.JOHN, MATTATHIL HOUSE, VATTIAMTHODU P.O.
VAYATHOOR VILLAGE, TALIPARAMBA TALUK, KANNUR DISTRICT.

BY ADVS.SRI.THOMSTINE K.AUGUSTINE
SRI.BIJU GEORGE (VADASSERY)

RESPONDENT/RESPONDENT:

GEORGE, AGED 14 YEARS
S/O.ANNAMMA, VANCHIPPARA HOUSE, MATTARA P.O.
VAYATHOOR VILLAGE, TALIPARAMBA TALUK
KANNUR DISTRICT-670 703
REPRESENTED BY MOTHER AND GUARDIAN ANNAMMA
D/O.JOSEPH, AGED 46 YEARS, VANCHIPPARA HOUSE
MATTARA P.O., VAYATHOOR VILLAGE, TALIPARAMBA TALUK
KANNUR DISTRICT-670 703.

R1 BY ADV.SRI.C.KHALID
R1 BY ADV.SRI.PHIJO PRADEESH PHILIP

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 03-11-2015, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:

ANTONY DOMINIC & P.D.RAJAN, JJ.

**R.P.No.194 of 2014 in
Mat. Appeal No.309 of 2013**

Dated this the 3rd day of November, 2015

ORDER

Antony Dominic, J.

Heard counsel for the petitioner and the learned counsel appearing for the respondent.

2. The petitioner filed the Mat. Appeal No.309/13 challenging the judgment of the Family Court, Thalassery in O.P.1014/11 whereby he was ordered to pay past maintenance to the respondent who claimed to be his minor son. By judgment dated 23rd May, 2013, this Court dismissed the appeal, primarily, on the basis that the Munsiff Court, Thaliparamba in its judgment and decree in O.S.454/09 (wrongly typed in the judgment as O.S.484/09), declared the respondent as the son of the petitioner. However, this assumption made by this Court was incorrect. It is the common case of the parties that the suit was initially decreed ex parte on 23.8.2011. Subsequently, the ex parte order was set aside and the suit was dismissed on 15.6.2012. This judgment was set aside by the Appellate Court in its judgment in CMA 13/13 filed by the respondent plaintiff and the Appellate Court remanded the matter to the trial court for fresh

consideration. Parties agree that on remand, the suit now is pending before the Munsiff Court, Thaliparamba. Evidently, therefore, the judgment of this Court vitiated for an erroneous assumption of fact.

For that reason, the judgment dated 23rd May 2013 dismissing M.A.309/13 is reviewed and recalled. Appeal be posted for hearing afresh. Review petition is allowed.

SD/-
ANTONY DOMINIC
JUDGE

SD/-
P.D.RAJAN
JUDGE

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