

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

RP.No. 645 of 2014 () IN RSA.366/2014

A.S.96/2013 OF II ADDL. DISTRICT COURT, MAVELIKKARA.
O.S.32/2011 OF MUNSIF COURT, KAYAMKULAM.

REVIEW PETITIONER(S)/APPELLANTS/APPELLANTS/PLAITIFFS:

1. UNNI, AGED 55 YEARS,
S/O.ACHUTHAN, RESIDING AT THUMBA THARAYIL,
KANDALLUR SOUTH MURI, KANDALLUR VILLAGE.
2. RADHA, AGED 49 YEARS,
W/O.UNNI, RESIDING AT THUMBA THARAYIL,
KANDALLUR SOUTH MURI, KANDALLUR VILLAGE.

BY ADVS.SRI.V.B.UNNIRAJ
SMT.R.S.GEETHA
SMT.JAYASREE MANOJ
SMT.P.ANITHA

RESPONDENT(S)/RESPONDENT/RESPONDENT/DEFENDANT:

M.BALAKRISHNA PILLAI, AGED 56 YEARS,
S/O.MADHAVAN PILLAI, ARIYELIL,
KANADALUR SOUTH MURI,
KANDALLUR VILLAGE 690 535.

BY ADV. SRI.B.RENJITHKUMAR

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD
ON 28-05-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

P. BHAVADASAN, J.

- - - - -
R.P. No. 645 of 2014 in
R.S.A. No. 366 of 2014 &
C.M.Appln No.748 of 2014
- - - - -

Dated this the 28th day of May, 2015.

ORDER

C.M.Application No. 748 of 2014 is an application filed under Section 5 of the Limitation Act to condone the delay of 103 days in filing the review petition.

2. The petitioner points out that in the affidavit filed in support of the petition to condone the delay, it is pointed out that he has given strict instructions to the counsel to file the review petition. But unfortunately the judgment was misplaced and it was traced out after considerable search. It could be traced out only on 18.8.2014. It is pointed out that there is no laches or negligence on the part of the petitioners and in the interests of justice, the delay be condoned and the matter be heard on merits.

3. Prima facie no reason is given for the delay. In order to find out whether any gross

injustice has been caused to the petitioners, the review petition was heard on merits. In the memorandum of review petition filed before this Court, even though the ground urged is that there is an error apparent on the face of the record, inspite of best efforts made by this Court, this Court finds no error apparent on the face of record. The only point urged in the review petition is that due to the judgment of the lower appellate court which was confirmed in appeal, the petitioners are put to irreparable loss and injury. It is also pointed out that they have not been given adequate opportunity to adduce evidence.

4. Both the contentions are without any basis whatsoever. This Court considered the matter in considerable detail and found that the claim of the petitioners cannot be true. There was no prayer at the time of hearing of the appeal that the petitioners were precluded from adducing evidence and they may be given an opportunity to

adduce evidence. The ground taken in the review petition in that regard is far too late. Being satisfied that there is no ground made out to interfere with the order of this Court dated 27.3.2014, this Court is satisfied that no purpose will be served by condoning the delay.

The delay condonation petition is accordingly dismissed, so also the review petition.

sb.

P. BHAVADASAN,
JUDGE