

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

RP.No. 973 of 2014 () IN LA.App..390/2005

AGAINST THE JUDGMENT IN LA.App. 390/2005 of HIGH COURT OF KERALA
DATED 14-11-2007

REVIEW PETITIONERS/APPELLANTS 1 & 2

1. CHACKO JACOB
NIRANANILATHU HOUSE, VETTITPPURAM
PATHANAMTHITTA POST & DISTRICT
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER
KOSHI VARGHESE.

2. KOSHY VARGHESE, THAVALATHIL HOUSE,
VETTIPPURAM, PATHANAMTHITTA P.O. AND DISTRICT.

BY ADV. SRI.T.K.KOSHY

RESPONDENTS/RESPONDENTS/RESPONDENTS 1 & 2

1. STATE OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR
PATHANAMTHITTA COLLECTORATRE
PATHANAMTHITTA , PIN 689 645

2. PATHANAMTHITTA MUNICIPALITY
REPRESENTEDBY ITS SECRETARY, PIN 689 645

BY SR.GOVERNMENT PLEADER SRI.R.PADMARAJ

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON
17-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**T.R.RAMACHANDRAN NAIR &
P.V.ASHA, JJ.**

**R.P.No.973 OF 2014,
C.M.Appln.No.1015/2014 in
R.P.No.973 OF 2014**

Dated this the 17th day of March, 2015

ORDER

Ramachandran Nair, J.

When C.M.Appln.No.1015/2014 in R.PNo.973/2014 came up for consideration, we heard the said application as well as the review petition. The land acquisition appeal is one filed by the claimants aggrieved by the judgment and decree in L.A.A.No.390/2005. At the time of filing of the appeal, they paid 1/3rd of the court fee. It appears that the balance court fee was not paid within the time and therefore a Division Bench of this Court by order dated 14/11/2007 rejected the appeal.

2. The review petition is filed to review the said order. It is submitted by the learned counsel for the appellant Sri.T.K.Koshy that the balance court fee has been paid along with the review petition.

3. It is also pointed out that on an earlier occasion, M.J.C.No.59/2012 was filed to restore the appeal which was rejected by another Division Bench by Annexure A order stating that a review petition itself will have to be filed.

4. We have gone through the affidavit in support of the application. It is stated that the appeal was filed through the office of a senior member of the Bar who is no more. The review petitioner did not get information after his death about the case and its progress and therefore the balance court fee could not be remitted within time. He has also stated in detail the medical treatment undergone by the review petitioner for tongue cancer and by his wife for breast cancer. He was being treated in Lissie Hospital, Ernakulam in 2012 and wife was being treated in Appollo Hospital, Madras and Amrita Hospital, Ernakulam for various deceases.

5. We heard the learned Government Pleader also.

In the light of the reasons stated in the affidavit in support of the application, we condone the delay. Since the appeal has been rejected only for non-payment of balance court fee, we allow the Review Petition and restore the appeal.

T.R.RAMACHANDRAN NAIR, JUDGE

P.VASHA, JUDGE

SV.