

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 5275 of 2010 (O)

OS.NO. 120/2006 OF SUB COURT, TIRUR

PETITIONER :

THEDUMKANNI ISMAIL,
S/O.AHAMMEDKUTTY HAJI, VALIYATHORA AMSOM DESOM
THIRURANGADI TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.JAMSHEED HAFIZ

RESPONDENT(S) :

1. SAIDALAVI, S/O.KUNJHIMARAKKAR
VALLICHANTE PURAYIL (H), THIRURANGADI TALUK
MALAPPURAM DISTRICT.
2. PALERI PADMANABAN, S/O.CHERIYAKKAL
PANNIYANKARA AMSOM DESOM, KOZHIKODE TALUK,
KOZHIKODE. (*DELETED)
3. MOHAMMED ALI, S/O.MULLUNGAL MOOSA
PARAPPANANGADI AMSOM DESOM, TIRURANGADI TALUK
MALAPPURAM DISTRICT.
4. PARAPPANANGADI SERVICE CO-OPERATIVE BANK,
REPRESENTED BY ITS SECRETARY.
5. MELEVEETIL FAIZAL SHAJAHAN
S/O.MOHAMMED ALI, PARAPPANANGADI AMSOM DESOM
TIRURANGADI TALUK.

*SECOND RESPONDENT DELETED FROM THE ARRAY OF PARTIES AS PER
ORDER DATED 11.09.2013 IN IA NO. 12211/2013 AT THE PETITIONER'S RISK.

R4 BY ADVS. SRI.K.P.SUDHEER
SRI.V.C.MADHAVANKUTTY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE PLAINT FILED IN OS NO. 120/2006 BEFORE THE SUB COURT, TIRUR DATED 27.6.2006.
- EXT.P2 COPY OF THE WRITTEN STATEMENT OF THE 4TH DEFENDANT IN OS NO. 120/2006 BEFORE THE SUB COURT, TIRUR DATED 15.7.2007.
- EXT.P3 COPY OF THE WRITTEN STATEMENT OF THE 3RD DEFENDANT IN OS NO. 120/2006 BEFORE THE SUB COURT, TIRUR DATED 14.5.2008.
- EXT.P4 COPY OF THE WRITTEN STATEMENT OF THE 5TH DEFENDANT IN OS NO. 120/2006 BEFORE THE SUB COURT, TIRUR DATED 6.6.2007.
- EXT.P5 COPY OF IA 1305/2008 IN OS NO. 120/2006 BEFORE THE SUB COURT, TIRUR DATED 24-6-2008.
- EXT.P6 COPY OF THE IA 1304/2008 IN OS NO. 120/2006 BEFORE THE SUB COURT, TIRUR DATED 24-6-2008.
- EXT.P7 COPY OF THE ORDER DATED 16.2.2010 IN OS NO. 120/2006 BEFORE THE SUB COURT, TIRUR DATED 16-2-2010.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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B.KEMAL PASHA, J.

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W.P.(C). No.5275 of 2010

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Dated this the 2nd day of June, 2015

J U D G M E N T

Heard the learned counsel for the petitioner and the learned counsel for the 4th respondent Bank.

2. On hearing either side, it has come out that the dismissal of Exhibits P5 and P6 I.As by the court below have resulted in substantial miscarriage of justice. It prima facie seems that petitioner is entitled to get the documents called for produced, and also the Commissioner in the other case examined. The court below has to re-consider Exhibits P5 and P6 I.As and pass orders, as expeditiously as possible.

In the result, this petition is allowed under Article 227 of the Constitution of India and the court below is directed to

re-consider Exhibits P5 and P6 I.As and pass orders as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment.

Sd/-

B.KEMAL PASHA
JUDGE

DSV/3/6/15