

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

SA.No. 544 of 2002 ()

**AGAINST THE JUDGMENT & DECREE IN AS.NO. 170/1991 OF SUB COURT, TIRUR
DATED 31-7-2002
AGAINST THE JUDGMENT & DECREE IN OS 175/1989 OF MUNSIF COURT, TIRUR
DATED 23-09-1991**

APPELLANTS/PLAINTIFFS/RESPONDENTS :

- 1. KUNHIKADIYA UMMA,
W/O. PANNIYATHU MAMMEDKUTTY, THEKKENKUTTOOR AMSOM
KANHIRAKKOL DESOM, TIRUR TALUK.**
- 2. RUKKIYA,
D/O. PANNIYATHU MAMMEDKUTTY,
TRIKKANDIYOOR AMSOM, EAZHUR DESOM, TIRUR TALUK.**

BY SENIOR ADVOCATE SRI.T.KRISHNAN UNNI

RESPONDENTS/DEFENDANTS/APPELLANTS :

- 1. KANDANCHIRA BEERANKUTTY,
S/O. MAMMAD, KUTTOOR AMSOM AND KANHIRAKKOL DESOM
TIRUR TALUK.**
- 2. KANDANCHIRA IYYACHAKUTTY,
W/O. POCKATTU KOYA, KUTTOOR AMSOM AND
KANHIRAKKOL DESOM, TIRUR TALUK.**
- 3. POONTHALA UMMAYYAKUTTY,
W/O. MAMMADU, KUTTOOR AMSOM AND KANHIRAKKOL DESOM,
TIRUR TALUK.**

R1 & R2 BY ADV. SRI.K.ANAND

**THIS SECOND APPEAL HAVING BEEN FINALLY HEARD ON 09-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

P.B.SURESH KUMAR, J.

S.A.No.544 of 2002

Dated this the 9th day of July, 2015

JUDGMENT

This Second Appeal arises from a suit for injunction. The trial court decreed the suit and the appellate court reversed the decision of the trial court and dismissed the suit. The plaintiffs have, therefore, come up in this appeal.

2. The third respondent in the appeal who was the third defendant in the suit though died pending Second Appeal, her legal representatives were not brought on record. As such, the impugned judgment as against the third respondent/third defendant has become final. The Second Appeal is, therefore, not maintainable in the light of the decision of this Court in **Raghavan Nair vs. Appu Kidavu** [1979 KLT 458]. The Second Appeal is accordingly,

dismissed. All the interlocutory applications in the appeal are closed.

P.B.SURESH KUMAR, JUDGE.

smm