IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE T.V.ANILKUMAR

FRIDAY, THE 04TH DAY OF DECEMBER 2020 / 13TH AGRAHAYANA, 1942

RFA.No.322 OF 2018

AGAINST THE JUDGMENT AND DECREE IN O.S.NO.216/2012 DATED 18-02-2017 OF SUB COURT, MUVATTUPUZHA

APPELLANT/DEFENDANT:

DANIEL
AGED 55 YEARS
S/O. DANIEL, AMBALATHAKIDIYIL HOUSE,
EZHAKKARANADU KARA, MANEED VILLAGE,
MUVATTUPUZHA TALUK

BY ADVS.
SRI.P.M.JOSHI
SMT.SIJI K.PAUL

RESPONDENTS/2ND PLAINTIFF & ADDITIONAL PLAINTIFFS 3 TO 5:

1 **SHAJAN**
S/O.PAULOSE, AGED 52 YEARS, THURUTHUMMEL HOUSE,
PARIYARAM KARA, AIKKARANADU SOUTH
VILLAGE,KUNNATHUNADU TALUK, PIN - 682 308

2 **LISSY**
W/O. LATE JOSE, AGED 53 YEARS,
THURUTHUMMEL HOUSE, PARIYARAM KARA,
AIKKARANADU SOUTH VILLAGE, KUNNATHUNADU TALUK,
PIN - 682 308

3 **ALBIN T JOSE**
S/O.LATE JOSE, AGED 25 YEARS,THURUTHUMMEL HOUSE,
PARIYARAM KARA, AIKKARANADU SOUTH VILLAGE,
KUNNATHUNADU TALUK, PIN - 682 308.

4 BEN THURUTHUMMEL (MINOR)
S/O. LATE JOSE, AGED 15 YEARS(DOB 3-1-2002)
THURUTHUMMEL HOUSE,
PARIYARAM KARA, AIKKARANADU SOUTH VILLAGE,
KUNNATHUNADU TALUK, PIN - 682 308
REPRESENTED BY HIS MOTHER AND NEXT FRIEND LISSY,
W/O. LATE JOSE, AGED 48 YEARS, THURUTHUMMEL HOUSE,
PARIYARAM KARA, AIKKARANADU SOUTH VILLAGE,
KUNNATHUNADU TALUK, PIN - 682 308

R1 TO R4 BY ADV. SRI.ALIAS M.CHERIAN

THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD ON 04.12.2020, ALONG WITH RFA.120/2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE T.V.ANILKUMAR

FRIDAY, THE 04TH DAY OF DECEMBER 2020 / 13TH AGRAHAYANA, 1942

RFA.No.120 OF 2019

AGAINST THE JUDGMENT AND DECREE IN O.S.NO. 216/2012 DATED 18-02-2017 OF SUB COURT, MUVATTUPUZHA

APPELLANTS/PLAINTIFFS 2 TO 5:

1 **SHAJAN,**
AGED 53 YEARS
S/O.PAULOSE, THURUTHUMMEL HOUSE,
PARIYARAM KARA, AIKKARANADU SOUTH VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM DISTRICT.

2 **LISSY,**
AGED 51 YEARS
W/O.JOSE, THURUTHUMMEL HOUSE, PARIYARAM KARA,
AIKKARANADU SOUTH VILLAGE, KUNNATHUNADU TALUK,
ERNAKULAM DISTRICT.

3 **ALHIN T.JOSE,**
AGED 23 YEARS
S/O.JOSE, THURUTHUMMEL HOUSE, PARIYARAM KARA,
AIKKARANADU SOUTH VILLAGE, KUNNATHUNADU TALUK,
ERNAKULAM DISTRICT.

4 **BEN THURUTHEMMEL (MINOR)**
AGED 17 YEARS
(DATE OF BIRTH 03/01/2002), S/O.JOSE,
THURUTHUMMEL HOUSE, PARIYARAM KARA,
AIKKARANADU SOUTH VILLAGE, KUNNATHUNADU TALUK,
ERNAKULAM DISTRICT, REPRESENTED BY MOTHER/LISSY
(2ND APPELLANT) AS THE NEXT FRIEND AND NATURAL
GUARDIAN.

BY ADV. SRI.ALIAS M.CHERIAN

RESPONDENT/DEFENDANT:

DANIEL,
AGED 56 YEARS, S/O.DANIEL,
AMBALAMTHAKIDIYIL HOUSE,
EZHAKKARANADU KARA, MANEED VILLAGE,
MUVATTUPUZHA TALUK, ERNAKULAM DISTRICT,
PIN- 682 308.

R1 BY ADVS. SRI.P.M.JOSHI
SMT.SIJI K.PAUL

THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD ON 04.12.2020, ALONG WITH RFA.322/2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

[RFA.322/2018, RFA.120/2019]

Dated this the 4th day of December 2020

In both these appeals, the parties entered into a compromise and submitted a memorandum of agreement under Section 89 of the Code of Civil Procedure read with Rules 24 and 25 of the Civil Procedure (Mediation) Rules, 2005.

2. I heard the learned counsel appearing on both sides and I am satisfied that the compromise entered into is voluntary. The terms and conditions of the compromise are, therefore, recorded. Decree is passed in terms of the compromise.

In the result, these appeals are disposed of in terms of compromise. The memorandum of agreement shall form part of this compromise decree. The appellants will get refund of the full court fee paid.

Sd/-

T.V.ANILKUMAR

JUDGE

DK

The judgment dated 4/12/2020 in RFA (Indigent) No.322/2018 is clarified as per order dated 22/06/2022 in the Appeal as follows "Since the matter was settled out of court and the appeal was disposed of in terms of the compromise arrived at by the parties, there is no necessity to initiate proceedings under Rule 14 of Order 33 CPC for recovery of the court fee payable. The appellant will stand exempted from the payment of court fee in view of the legal position settled by the Apex Court in High Court of Judicature at Madras rep. By its Registrar General v. M.C. Subramaniam and others [2021 (2) KHC 62]."

Sd/-
JOINT REGISTRAR