

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

MONDAY, THE 18TH DAY OF DECEMBER 2023 / 27TH AGRAHAYANA, 1945

RSA NO. 496 OF 2022

AGAINST THE DECREE AND JUDGMENT DATED 21.08.2019 IN A.S.NO.69/2018 ON
THE FILES OF THE COURT OF THE I ADDITIONAL DISTRICT JUDGE, KOZHIKODE
AROSE FROM THE DECREE AND JUDGMENT DATED 09.01.2018 IN
O.S.NO.166/2007 ON THE FILES OF THE COURT OF THE I ADDITIONAL
SUBORDINATE JUDGE, KOZHIKODE

APPELLANT/APPELLANT/DEFENDANT NO.2:

HAMZAKOYA
AGED 54,
S/O.POKKAR, KALLIYIL HOUSE, NADUVATTOM AMSOM DESOM,
KOZHIKODE TALUK, KOZHIKODE DISTRICT - 679 571.
PARTY IN PERSON

RESPONDENTS/RESPONDENTS/PLAINTIFF AND DEFENDANT NOS.3 TO 5:

- 1 KALLIYIL NABEESA
AGED 64 YEARS, D/O.POKKER (DISPUTED),
NADUVATTOM AMSOM DESOM, KOZHIKODE, RESIDING AT
KOTTIYATTU PARAMBA, RAMAKRISHNA MISSION SCHOOL,
PANNIYANKARA AMSOM DESOM, KOZHIKODE TALUK - 679 571.
- 2 MARIYAMBHI
AGED 45 YEARS
W/O.LATE IBRAHIM, KALLIYIL HOUSE, POOLIYITHAZHAM,
VELLAYIKKODE AMSOM DESOM, KOZHIKODE TALUK,
KOZHIKODE DISTRICT
NOW RESIDING AT KALLIYIL HOUSE, CHAKKORIKADU PARAMBA,
ARAKINAR POST, NADUVATTOM AMSOM DESOM, KOZHIKODE TALUK,
KOZHIKODE DISTRICT - 673 028.
- 3 RIYAZ
AGED 32 YEARS
S/O.LATE IBRAHIM, KALLIYIL HOUSE, POOLIYILTHAZHAM,
VELLAYIKKODE AMSOM DESOM, KOZHIKODE TALUK,
KOZHIKODE DISTRICT
NOW RESIDING AT KALLIYIL HOUSE, CHAKKORIKADU PARAMBA,
ARAKINAR POST, NADUVATTOM AMSOM, KOZHIKODE TALUK,
KOZHIKODE DISTRICT - 673 028.

**4 RISWANA
 AGED 30 YEARS
 D/O.LATE IBRAHIM, KALLIYIL HOUSE, POOLIYILTHAZHAM,
 VELLAYIKKODE AMSOM DESOM, KOZHIKODE TALUK
 KOZHIKODE DISTRICT, NOW RESIDING AT KALLIYIL HOUSE,
 CHAKKORIKADU PARAMBA, ARAKINAR POST, NADUVATTOM AMSOM
 DESOM, KOZHIKODE TALUK, KOZHIKODE DISTRICT - 673 028.
 BY ADVS.
 V.V.SURENDRAN - R1
 P.A.HARISH - R1**

**THIS REGULAR SECOND APPEAL HAVING COME UP FOR HEARING ON
18.12.2023 ALONG WITH R.S.A.NO.538/2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

MONDAY, THE 18TH DAY OF DECEMBER 2023 / 27TH AGRAHAYANA, 1945

RSA NO. 538 OF 2022

AGAINST THE DECREE AND JUDGMENT DATED 21.08.2019 IN A.S.NO.71/2018

**ON THE FILES OF THE COURT OF THE I ADDITIONAL DISTRICT JUDGE,
KOZHIKODE AROSE FROM THE DECREE AND JUDGMENT DATED 09.01.2018 IN
O.S.NO.251/2012 ON THE FILES OF THE COURT OF THE I ADDITIONAL
SUBORDINATE JUDGE, KOZHIKODE**

APPELLANT/APPELLANT/PLAINTIFF:

KALLIYIL HAMZAKOYA

AGED 54 YEARS

**S/O.KALLIYIL POKKAR, KALLIYIL HOUSE, ARAKKINAR P.O.,
CHAKORIKADU PARAMB, NADUVATTOM AMSOM DESOM, KOZHIKODE.**

PARTY IN PERSON

RESPONDENTS/RESPONDENTS/DEFENDANTS:

- 1 KALLIYIL NABEESA
AGED 65 YEARS
D/O.KALLIYIL POCKER (DISPUTED) NADUVATTOM AMSOM DESOM,
KOZHIKODE, NOW RESIDING AT KOTTIYATTU PARAMBA, NEAR
RAMAKRISHNA MISSION SCHOOL, PANNIYANKARA AMSOM DESOM,
KOZHKODE - 679 571.**
- 2 MARIYAKUTTY
AGED 47 YEARS
W/O.LATE IBRAHIM, KALLIYIL HOUSE, CHAKORIKADU PARAMBU,
ARAKINAR P.O., NADUVATTOM AMSOM DESOM,
KOZHIKODE - 673 028.**
- 3 RIYAZ
AGED 32 YEARS
S/O.LATE IBRAHIM, KALLIYIL HOUSE, CHAKORIKADU PARAMB,
ARAKINAR P.O., NADUVATTOM AMSOM DESOM,
KOZHIKODE - 673 028.**

4 SEENA
AGED 30 YEARS
D/O.LATE IBRAHIM, KALLIYIL HOUSE, CHAKORIKADU PARAMB,
ARAKINAR P.O., NADUVATTOM AMSOM DESOM,
KOZHIKODE - 673 028.
BY ADVS.
V.V.SURENDRAN - R1
P.A.HARISH - R1
ASWATHI C. - R1

THIS REGULAR SECOND APPEAL HAVING COME UP FOR HEARING ON
18.12.2023 ALONG WITH R.S.A.NO.496/2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 18th day of December, 2023

These regular second appeals have been filed under order XLII Rule 1 read with Section 100 of the Code of Civil Procedure challenging the decrees and common judgment in A.S. Nos.69 and 71 of 2018 dated 21.08.2019 on the files of the Court of the District Judge, Kozhikode arose from the decrees and common judgment in O.S. No.166 of 2007 and O.S. No.251 of 2012 dated 09.01.2018 on the files of the Court of the Subordinate Judge, Kozhikode.

2. The appellant and the counsel called absent.

3. Though these appeals have been posted today for hearing finally as requested by the learned counsel for the respondents, the appellant did not turn up.

4. Since the learned counsel for the appellant is not intended to proceed with these matters, these regular second appeals stand dismissed for non prosecution.

All interlocutory application also stand dismissed and the interim stay in executing the decree shall stand vacated.

Sd/ -

**A. BADHARUDEEN
JUDGE**

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