

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE S.S.SATHEESACHANDRAN**

**MONDAY, THE 30TH NOVEMBER 2009 / 9TH AGRAHAYANA 1931**

**WP(C).No. 34300 of 2009(O)**

**OS.167/2002 of MUNSIFF COURT, PUNALUR**

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**PETITIONER(S):**

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- 1. AJITH KRISHNA, AGED 27 YEARS,  
S/O.LATE DAMODARAN, KISHORE BHAVAN,  
PUNNALA, NOW RESIDING AT OMAKARAN HOUSE NO.310,  
AKG NAGAR, PEROORKKADA, THIRUVANANTHAPURAM.**
- 2. ANILA RANI, AGED 23 YEARS,  
D/O.LATE DAMODARAN, KISHORE BHAVAN,  
PUNNALA, NOW RESIDING AT OMAKARAN HOUSE NO.310,  
AKG NAGAR, PEROORKKADA, THIRUVANANTHAPURAM.**

**BY ADV. SRI.SYAM J SAM**

**RESPONDENT(S):**

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- 1. SUDHAKARAN, S/O.CHELLAPPAN,  
SWAPNA BHAVAN, BARANIKAVU, PUNALUR P.O., KOLLAM.**
- 2. SARALAMMA, W/O.SUDHAKARAN,  
SWAPNA BHAVAN, BARANIKAVU,  
PUNALUR P.O., KOLLAM.**
- 3. PRASANTHA KUMARI,  
W/O.LATE DAMODHARAN, KISHORE BHAVAN,  
PUNNALA, NOW RESIDING AT OMAKARAN HOUSE NO.310,  
AKG NAGAR, PEROORKKADA, THIRUVANANTHAPURAM.**
- 4. KISHORE, S/O.LATE DAMODHARAN,  
KISHORE BHAVAN, PUNNALA, NOW RESIDING AT  
OMAKARAN HOUSE NO.310, AKG NAGAR, PEROORKKADA,  
THIRUVANANTHAPURAM.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 30/11/2009, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**S.S.SATHEESACHANDRAN, J.**

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**W.P.(C).NO.34300 OF 2009 (O)**  
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**Dated this the 30<sup>th</sup> day of November, 2009**

**J U D G M E N T**

Petitioners are the plaintiffs in O.S.No.167 of 2002 on the file of the Munsiff Court, Punalur. Suit was filed for partition and separate possession, and the respondents are the defendants. Respondents resisted the suit by filing a written statement. An application for amendment was moved by the plaintiffs seeking to incorporate allegations in the plaint that a sale deed executed by the 3<sup>rd</sup> defendant for and on behalf of the plaintiffs, when they were minors, in favour of the 2<sup>nd</sup> defendant, was ab initio void and also for an additional relief for setting aside that sale deed. That amendment application was dismissed by the court by Ext.P4 order dated 15.3.2006. Challenge against that Ext.P4 order by way of a revision was dismissed by this Court by Ext.P5 order. While passing Ext.P5 order, it was also noticed that the suit had already been

dismissed for default. On the application moved by the petitioners/plaintiffs, the suit dismissed for default was restored to file vide Ext.P6 order. Now the petitioners have again approached this Court challenging the propriety and correctness of Ext.P4 order declining the request for amendment of the plaint.

3. I heard the counsel for the petitioners. Correctness of Ext.P4 order challenged before this Court had been declined vide Ext.P5 order in the earlier revision. Merely because the suit has been restored to file, petitioners will not get any right to canvass the propriety and correctness of Ext.P4 order again before this Court by way of a writ petition.

Writ petition lacks merit, and it is dismissed.

**S.S.SATHEESACHANDRAN**  
**JUDGE**

prp

