

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SATHISH NINAN

THURSDAY, THE 28TH DAY OF FEBRUARY 2019/9TH PHALGUNA, 1940

O.P.(C)No.654 of 2019

(AGAINST THE ORDER DATED 11-01-2019
IN I.A.Nos.2245/2018 & 2246/2018 IN O.S.No.199/2016
OF MUNSIFF COURT, KARUNAGAPPALLY)

PETITIONER/COUNTER PETITIONER/PLAINTIFF:

MUTHUKOYA,
AGED 80 YEARS,
S/O. HAMEED KUNJU MUSALIYAR,
KALLOOR VEETIL, KOZHIKKODU MEKKU MURI,
AYANIVELIKULANGARA VILLAGE, KARUNAGAPPALLY.

BY ADVS.
SRI.C.R.SYAMKUMAR
SHRI.ASWIN KUMAR M J
SMT.V.A.HARITHA
SRI.K.ARJUN VENUGOPAL
SRI.P.A.MOHAMMED SHAH
SRI.R.NANDAGOPAL
SRI.SIDHARTH B PRASAD
SRI.SOORAJ T.ELENJICKAL

RESPONDENTS/PETITIONRES/DEFENDANTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE DISTRICT COLLECTOR,
KOLLAM - 691 008.
- 2 THE TAHSILDAR,
KARUNAGAPPALLY TALUK,
TALUK OFFICE, CIVIL STATION,
KARUNAGAPPALLY - 690 518.
- 3 THE VILLAGE OFFICER,
AYANIVELIKULANGARA VILLAGE,
VILLAGE OFFICE, AYANIVELIKULANGARA,
KARUNAGAPPALLY - 690 573.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
28.02.2019, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

JUDGMENT

The petitioner is the plaintiff in a suit for mandatory injunction. He is aggrieved by the order setting aside the ex parte decree after condoning the delay of 237 days.

The defendants are Government Officials. The reason for the delay was that, the earlier Government Pleader who was conducting the suit fell ill and the written statement could not be filed within time. It is only when the present Government Pleader was entrusted with the files, it was noticed that the defendants have failed to submit written statement and have been set ex parte. It is thereupon that the application seeking to set aside the ex parte decree was filed.

The court below has considered the reasons given for the delay and has

exercised its discretion, to condone the delay. I do not find any error of jurisdiction, warranting interference under Article 227 of the Constitution of India. The Original Petition fails and is dismissed. The suit is of the year 2016. I dispose of this original petition directing the learned Munsiff to make every endeavor to have the suit tried and disposed of as expeditiously as possible.

Sd/-

SATHISH NINAN

JUDGE

APPENDIX

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE JUDGMENT IN RSA 158/2010
DATED 25-5-2015 OF THIS HON'BLE COURT.
- EXHIBIT P2 TRUE COPY OF THE JUDGMENT ON O. S. 199/2016
OF THE MUNSIFF COURT, KARUNAGAPPALLY DATED
3-2-2018.
- EXHIBIT P3 TRUE COPY OF THE AFFIDAVIT AND PETITION IN
I.A. 2245/2018 IN O. S. 199/2016 DATED
27-9-2018 OF THE MUNSIFF COURT,
KARUNAGAPPALLY.
- EXHIBIT P4 TRUE COPY OF THE AFFIDAVIT AND PETITION IN
I.A. 2246/2018 IN O. S. 199/2016 DATED
27-9-2018 OF THE MUNSIFF COURT,
KARUNAGAPPALLY.
- EXHIBIT P5 TRUE COPY OF THE OBJECTION IN I. A.
2245/2018 IN O. S. 199/2016 DATED NIL OF
THE MUNSIFF COURT, KARUNAGAPPALLY.
- EXHIBIT P6 TRUE COPY OF THE OBJECTION IN I. A.
2246/2018 IN O. S. 199/2016 DATED NIL OF
THE MUNSIFF COURT, KARUNAGAPPALLY.
- EXHIBIT P7 TRUE COPY OF THE COMMON ORDER IN I. A.
2245/2018 AND I. A. 2246/2018 IN O. S.
199/2016 OF THE MUNSIFF COURT,
KARUNAGAPPALLY DATED 11-1-2019.