

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

FRIDAY, THE 30TH DAY OF JUNE 2023 / 9TH ASHADHA, 1945

FAO NO.282 OF 2012

AGAINST THE COMMON ORDER IN I.A.NO.1871/10 AND 1872/10 IN
A.S.NO.52/02 BEFORE THE ADDITIONAL DISTRICT COURT,KOTTAYAM
APPELLANT/PETITIONER/APPELLANT:

KESAVAN

S/O.RAMAN, HINDU, AGED 61,CHENTHITTAKUNNEL HOUSE,
KURUMULLOOR KARA, DO, P.O.,PINCODE - 686639,
KANAKARI VILLAGE.

BY ADVS.

SRI.M.P.MADHAVANKUTTY

SRI.GOKUL DAS V.V.H.

RESPONDENTS/CR.PETITIONERS/RESPONDENTS:

- 1 RAMANKUTTY
S/O.KESAVAN, HINDU, AGED 61, MANNOOSSERIL HOUSE,
KANJIRAPPALLY KARA, KANJIRAPALLY P.O, PIN CODE -
686512, KANJIRAPPALLY VILLAGE FROM MANNOOSSERIL
HOUSE, PULIYANNOOR KARA, PULIYANNOOR VILLAGE
- 2 KARUNAN
S/O.KESAVAN, HINDU, AGED 58, KANJIRAPALLY P.O,
PIN CODE - 686512, KANJIRAPPALLY KARA,
KANJIRAPPALLY VILLAGE FROM MANNOOSSERIL HOUSE,
PULIYANNOOR KARA, PULIYANNOOR VILLAGE
- 3 GOPALAN
S/O.KESAVAN, HINDU, AGED 55, MANNOOSSERIL HOUSE,
PULIYANNOOR KARA, PULIYANNOR P.O, PIN CODE -

686573, PULIYANNOR VILLAGE

- 4 **SUKUMARAN**
S/O.KESAVAN, HINDU, AGED 52, MANNOOSSERIL
HOUSE, PULIYANNOOR KARA, PUIYANNOR P.O., PIN -
686 573.
- 5 **SANKARAN**
S/O.NARAYANAN, HINDU, AGED 56,
PULINIKKUMKALAYIL HOUSE, KURUMULLOOR KARA,
KURUMMALLOOR P.O, PIN CODE - 686636 KANAKKARI
VILLAGE
- 6 **KRISHNAN**
S/O. NARAYANAN, HINDU, AGED 56,
PULINIKKUMKALAYIL HOUSE, KURUMMALLOOR P.O, PIN
CODE - 686639, KANAKKARI VILLAGE
- 7 **KRISHNAN**
S/O.GOVINDAN, HINDU, AGED 56, PULINIKKUMKALAYIL
HOUSE, KURUMMALLOOR P.O, PIN CODE - 686639,
KANAKKARI VILLAGE
- 8 **UNNI**
S/O.GOVINDAN, HINDU, AGED 56, PULINIKKUMKALAYIL
HOUSE, KURUMMALLOOR P.O, PIN CODE - 686639,
KANAKKARI VILLAGE
- 9 **SUKUMARAN**
S/O.GOVINDAN, HINDU, AGED 58, PULINIKKUMKALAYIL
HOUSE, KURUMMALLOOR P.O, PIN CODE - 686639,
KANAKKARI VILLAGE
- 10 **THANKAN**
S/O.GOVINDAN, HINDU, AGED 50, PULINIKKUMKALAYIL
HOUSE, KURUMMALLOOR P.O, PIN CODE - 686639,
KANAKKARI VILLAGE
- 11 **MOHANAN**
S/O.GOVINDAN, HINDU, AGED 48, PULINIKKUMKALAYIL
HOUSE, KURUMMALLOOR P.O, PIN CODE - 686639,

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KANAKKARI VILLAGE

**THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR
ADMISSION ON 30.06.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

J U D G M E N T

Anil K.Narendran, J.

The appellant filed A.S.No.52 of 2002 before the Additional District Court, Kottayam, challenging the judgment and decree of the Munsiff's Court, Ettumanoor in O.S.No.192 of 1987. That appeal was dismissed for default on 20.08.2010. For restoration, the appellant filed IA No.1872 of 2010, which was supported by I.A.No.1871 of 2010 for condonation of delay of 41 days. Both the applications ended in dismissal by the order dated 02.08.2011, which is under challenge in this appeal filed invoking the provisions under Order XLIII Rule 1(c) of the Code of Civil Procedure, 1908.

2. On 18.09.2012, when this appeal came up for admission, this Court issued urgent notice before admission to the respondents by speed post returnable within ten days. Service of notice is not complete on some of the respondents.

3. Today, when the matter is taken up for consideration, the learned counsel for the appellant would submit that the appellant is no more and despite sending

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registered letter, there is no instructions from his legal heirs.

In such circumstances, this appeal is dismissed as abated.

Sd/-

ANIL K. NARENDRA, JUDGE

Sd/-

P.G. AJITHKUMAR, JUDGE

PV