

Mary Vs. Varghese

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Court : Kerala

Decided On : Aug-05-2013

Judge : Honourable Mr.Justice P.N.Ravindran

Appellant : Mary

Respondent : Varghese

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN MONDAY, THE 5TH DAY OF AUGUST 2013 14TH SRAVANA, 1935 OP(C).No. 2691 of 2013 (O) ----- (I.A.NO.658/13 IN O.S.NO.602/11 OF ADDITIONAL SUB COURT,NORTH PARAVUR) PETITIONER(S): ----- 1. MARY,AGED 6 YEARS, W/O.JOSEPH, KOLATTUKUDY HOUSE, ALUVA TALUK, MANNAPRA VILLAGE, VADAKKUM BAGHAM KARA, ERNAKULAM DIST.

2. JOSEPH, AGED 7 YEARS, S/O.CHAKKU, KOLATTUKUDY HOUSE, ALUVA TALUK, MANNAPRA VILLAGE, VADAKKUM BAGHAM KARA, ERNAKULAM DIST. BY ADV. SRI.PAUL K.VARGHESE RESPONDENT(S): -----

1. VARGHESE, AGED 6 YEARS, S/O.PAULOSE, KACHEPILLI HOUSE, ALUVATALUK, KARUKUTTY VILLAGE, KARUKUTTY KARA, PIN-683 581.

2. JOY JOSEPH, AGED 7 YEARS, S/O.N.P.JOSEPH, NEDUMKANDATHIL HOUSE, KUNATHUNADU TALUK, KODANAD VILLAGE, THOTTUVAKARA P IN-683 544.

3. SHAJU FRANCIS, AGED 4 YEARS, S/O.FRANCIS, PAYAPILLI HOUSE, MUKUNDHA PURAM TALUK, KORATTY KEZHAKU MURI VILLAGE, PIN 531.

4. FAIZAL,AGED 3 YEARS, S/O.USMAN, PULAVATH HOUSE, KUNNATHU NADU TALUK, VENGOLA VILLAGE, VENGOLA KARA , PIN-683 554.

5. JOY,AGED 4 YEARS, S/O.OUSEPH, KACHEPILLI HOUSE, ALUVA TALUK, MANAPRA VILLAGE, VADAKKUM BHAGAM KARA, PIN-683 581.

6. THOMAS SEBASTIAN, AGED 4 YEARS, S/O.DEVASSI, KOLATTUKUDY HOUSE, ALUVA TALUK, MANAPRA VILLAGE, VADAKKUM BAGHAM KARA PIN-683 581. THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 05-08-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Kss OP(C).No. 2691 of 2013 (O) ----- APPENDIX PETITIONER(S)' EXHIBITS: ----- EXHIBIT P1- A TRUE COPY OF THE PLAINT IN O.S.NO. 602/2011 ON THE FILE OF SUB COURT, NORTH PARAVOOR DATED 24 11-2011. EXHIBIT P2- A TRUE COPY OF THE COURT FEE EXEMPTION PETITION FILED BY THE PETITIONERS AS IA NO. 658/2013 IN OS NO. 602/2011 ON THE FILE OF ADDITIONAL SUB COURT, NORTH PARAVOOR DATED 25 2-2013. EXHIBIT P3- A TRUE COPY OF THE ORDER IN IA 658/2013 IN OS 602/2011 ON THE FILE OF ADDITIONAL SUB COURT, NORTH PARAVOOR DATED 18 7-2013. RESPONDENT(S)' EXHIBITS: ----- N I L /TRUE COPY/ P.S.TOJUDGE Kss P.N.RAVINDRAN, J.

----- O.P.(C).No.2691 of 2013
----- Dated this the 5th day of August, 2013
JUDGMENT In this original petition filed under Article 227 of the Constitution of India the petitioners challenge the order dated 18.7.2013 passed by the Court of

the Additional Subordinate Judge of North Paravur dismissing I.A.No.658 of 2013 in O.S.No.602 of 2011, an application filed by them for leave to file the suit as an indigent person. Under Order 43 Rule 1 (na) of the Code of Civil Procedure, an appeal lies from an order under Rule 5 or Rule 7 of Order 33 rejecting an application to sue as an indigent person. In view of the fact that an appeal lies from the impugned order I am of the opinion that the petitioner should resort to the said remedy instead of invoking the jurisdiction of this Court under Article 227 of the Constitution of India. The original petition is accordingly dismissed without prejudice to the contentions of the petitioner and reserving liberty with him to file an appeal canvassing the correctness of the impugned order. P.N.RAVINDRAN, Judge. ahg. P.N.RAVINDRAN, J.

----- O.P.(C).No.2691 of 2013 ----- JUDGMENT 5
h August, 2013

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