

Hayaruneesa Vs. E.M.Basheer

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Court : Kerala

Decided On : Nov-29-2013

Judge : Honourable Mr.Justice P.N.Ravindran

Appellant : Hayaruneesa

Respondent : E.M.Basheer

Judgement :

IN THE HIGH COURT OF KERALAAT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN FRIDAY, THE 29TH DAY OF NOVEMBER 2013 8TH AGRAHAYANA, 1935 OP(C).No. 1624 of 2013 (O) ----- (AS352012 of SUB COURT, NEYYATTINKARA) PETITIONER: ----- HAYARUNEESA AGED 64 YEARS D/O. ATHITHA BEEVI, SHAM COTTAGE, ANCHU VARNATHERUVU ANTHIYOOR DESOM, KOTTUKAL VILLAGE, BALARAMAPURAM P.O. THIRUVANANTHAPURAM DISTRICT-695 501. BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA SRI.S.MUJEEB RAHIMAN RESPONDENT: ----- E.M.BASHEER, AGED 72 YEARS SHABEER MANZIL, ANTHIYOOR DESOM, KOTTUKAL VILLAGE BALARAMAPURAM P.O. THIRUVANANTHAPURAM DISTRICT-695 501. THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 29/11-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: OP(C).No. 1624 of 2013 (O) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- P1 : COPY OF THE

JUDGMENT

DTD.23.9.2011 IN OS NO.1017/2007 OF THE LEARNED COURT OF THE ADDITIONAL MUNSIF-II, NEYYATTINKARA. P2 : COPY OF AS NO.35/2012 FILED BEFORE THE LEARNED SUB COURT, NEYYATTINKARA BY THE RESPONDENT. P3 : COPY OF THE AFFIDAVIT DTD.28.3.2012 IN AS NO.35/2012 FILED BEFORE THE LEARNED SUB COURT, NEYYATTINKARA BY THE RESPONDENT. P4 : COPY OF THE IA NO.618/2012 IN AS NO.35/2012 DTD.28.3.2012 FILED BEFORE THE LEARNED SUB COURT, NEYYATTINKARA BY THE RESPONDENT. P5 : COPY OF THE COUNTER AFFIDAVIT DTD.9.10.2012 IN AS NO.35/2012 FILED BEFORE THE LEARNED SUB COURT, NEYYATTINKARA BY THE PETITIONER. P6 : COPY OF THE

ORDER

DTD.1.11.2012 IN IA NO.618/2012 IN AS NO.35/2012 OF THE LEARNED SUB COURT, NEYYATTINKARA. RESPONDENT(S)' EXHIBITS
----- NIL /TRUE COPY/ VPS PA TO JUDGE
P.N.RAVINDRAN, J.

----- O.P.(C) No.1624 of 2013 ----- Dated this the
29th day of November, 2013

JUDGMENT

The petitioner is the second plaintiff in O.S.No.1017 of 2007 on the file of the Court of the additional Munsiff-II, Neyyattinkara. The respondent is the first defendant therein. The suit instituted by the petitioner and two others against the respondent and others for declaration of title and other reliefs was decreed after trial by Ext.P1 judgment delivered on 23.9.2011. Aggrieved thereby, the respondent herein, who is the first defendant in the suit, filed A.S.No.35 of 2012 on the file of the Court of the Subordinate Judge of Neyyattinkara. In that appeal, an order of stay was also passed staying the operation of the decree passed by the trial court till the disposal of the appeal. In this original petition filed under Article 227 of the constitution of India, the petitioner prays for a direction to the appellate court to dispose of the appeal expeditiously.

2. When the original petition came up for admission hearing on 15.11.2013, I directed the registry to call for a report from the Court of the Subordinate Judge of Neyyattinkara as to whether all the respondents in the appeal have been served, whether the lower court records have been received and whether the appeal is ripe for O.P.(C) No.1624/2013 2 hearing. The registry was also directed to ascertain the time frame within which the appeal can be heard and disposed of. The Principal Subordinate Judge, Thiruvananthapuram who is holding charge of Sub Judge, Neyyattinkara has submitted a report dated 20.11.2013 wherein he has stated that the Presiding Officer of Sub Court, Neyyattinkara is on leave, that he is in charge of that court, that the appeal is ripe for hearing, that the plaintiffs in the suit alone have been impleaded as respondents in the appeal and that the appeal stands posted to 30.1.2014, but the lower court records have not been called for. The Principal Subordinate Judge has also reported that the Presiding Officer has informed him that the appeal can be heard and disposed of within six months. In the light of the aforesaid report, I am of the opinion that this Court would be perfectly justified even without serving notice on the respondent in directing the appellate court to hear and dispose of the appeal expeditiously. I accordingly dispose of the appeal with a direction to the Court of the Subordinate Judge of Neyyattinkara to hear and dispose of A.S.No.35 of 2012 expeditiously and in any event before 30.6.2014. P.N.RAVINDRAN, (JUDGE) vps

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