

**Varghese Vs. John**

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**Court :** Kerala

**Decided On :** Apr-25-2014

**Judge :** Honourable Mr.Justice a.M.Shaffique

**Appellant :** Varghese

**Respondent :** John

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE A.M.SHAFIQUER FRIDAY, THE 25TH DAY OF APRIL 2014 5TH VAISAKHA, 1936 OP(C).No. 1108 of 2014 (O)

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**JUDGMENT**

IN OS9132010 of III ADDL.SUB COURT, ERNAKULAM DATED 07-10-2013  
PETITIONER(S): ----- 1. VARGHESE AGED 63 YEARS  
S/O.ULAHANNAN, RESIDING AT KOPPARAMBIL HOUSE KATTIKUNNU,  
CHEMPU, VAIKKOM.

2. SEBASTIAN AGED 58 YEARS S/O.ULAHANNAN, RESIDING AT  
KOPPARAMBIL HOUSE, KATTIKUNNU, CHEMPU, VAIKKOM.

3. THOMAS AGED 54 YEARS S/O.ULAHANNAN, RESIDING AT KOPPARAMBIL  
HOUSE KATTIKUNNU, CHEMPU, VAIKKOM.

4. MATHAI AGED 65 YEARS S/O. ULAHANNAN, RESIDING AT KOPPARAMBIL HOUSE KATTIKUNNU, CHEMPU, VAIKKOM. BY ADVS. SMT. C.G. BINDU SMT. C.G. AJITHA RESPONDENT(S): ----- 1. MR. JOHN S/O. XAVIER, KALATHIPARAMBIL HOUSE, PUTHU VYPPU VILLAGE KOCHI TALUK, ERNAKULAM.-682507 2. MR. SURESH GOPALAKRISHNAN, S/O. GOPALAKRISHNAN PILLAI RESIDING AT NAVARATNA APARTMENT, B-5, BAGYADHARA LANE PALARIVATTOM, ERNAKULAM- 682024 BY PUBLIC PROSECUTOR SRI. ABIJETT LESSLY THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 2504-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: OP(C).No. 1108 of 2014 (O) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- EXT.P1 - TRUE COPY OF THE RELEVANT PAGES OF THE WRITTEN STATEMENT IN OS9132010 WHICH CONTAINS THE COUNTER CLAIM OF THE PETITIONERS EXT.P2 - TRUE COPY OF THE

#### JUDGMENT

DT. 7-10-2013 IN OS. 913/2010 OF THE SUB COURT, ERNAKULAM. EXT.P3 - TRUE COPY OF THE CORRECTION PETITION IA54592013 IN OS9132010 OF THE SUB COURT, ERNAKULAM EXT.P4 - TRUE COPY OF THE APPLICATION TO SET ASIDE EX-PARTE

#### ORDER

OF THE 1<sup>ST</sup> RESPONDENT EXT.P5 - TRUE COPY OF THE OBJECTION SUBMITTED BY 2<sup>ND</sup> RESPONDENT. //True Copy// P.A. To Judge Mr. A.M. SHAFFIQUE, J \* \* \* \* \* O.P.(C).No.1108 of 2014

----- Dated this the 25th day of April 2014

#### ORDER

Petitioners have approached this Court inter alia complaining that though decree had been passed in the case dismissing a suit and a counter claim, the copy of the decree has not been furnished to the petitioner. According to the petitioners, there was a mistake in the valuation portion in the counter claim. Instead of court fee liability of Rs.2,18,400/-, by mistake, in the valuation portion of the counter claim it was mentioned as Rs.2,45,200/-.

2. During the pendency of the suit and counter claim, the petitioners remitted the actual court fee of Rs.2,18,400/-. Since the mistake in the valuation portion of the counter claim was not noticed, necessary correction petition could not be filed before the disposal of the suit and counter claim. However, when there was delay in obtaining the decree, petitioners made enquiries and it was noticed that the delay O.P.(C) No.1108/2014 2 was occurred on account of the incorrect valuation mentioned in the counter claim. Hence the petitioners filed Ext.P3 application for correction of the valuation portion of the counter claim in order to enable the office of the Court to provide copy of the decree in the suit and counter claim to the petitioner.

3. The complaint of the petitioners is that no action has been taken by the court below for disposing of Ext.P3 application. The petition is now adjourned to 04/06/2014. According to the petitioners, the delay in providing the copy of the decree is creating undue hardship to the petitioners. Under these circumstances, there will be a direction to the Sub Court, Ernakulam to consider and dispose of I.A.No.5459 of 2013 (Ext.P3) within a period of one week after the Court reopens on 21/05/2014. (sd/-) (A.M.SHAFIQU, JUDGE) jsr O.P.(C) No.1108/2014 3

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