

A.C.Mohandas vs Premanathan

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Court : Kerala Orders

Decided On : Mar-05-2024

Judge : Honourable Mr. Justice Sathish Ninan

Appeal No. : AS/192/1998

Appellant : A.C.Mohandas

Respondent : Premanathan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE SATHISH NINAN
TUESDAY, THE 5TH DAY OF MARCH 2024 / 15TH PHALGUNA, 1945
AS NO. 434 OF 1997 AGAINST THE JUDGMENT AND DECREE
DATED 28.10.1996 IN OS NO.155 OF 1986 OF SUB
COURT,KOZHIKODE APPELLANTS / DEFENDANTS 10 TO 13, 16 &
17: *1 METHAL THODIYIL CHATHUNNI, KOTTOLI AMSOM AND
DESOM, KOZHIKODE TALUK. (DIED) *2 PARAMPALATH
SREENIVASAN, KOTTOLI AMSOM AND DESOM, KOZHIKODE
TALUK. (DIED) 3 EDAKANDIYIL DASAN KOTTOLI AMSOM AND
DESOM, KOZHIKODE TALUK.

4 KOLLARAKKAL RAGHAVAN KOTTOLI AMSOM AND DESOM, KOZHIKODE TALUK.(STRUCK OFF)(THE NAME OF THE FOURTH APPELLANT STRUCK OFF FROM THE PARTY ARRAY AS PER ORDER DATED 13.01.2003 IN CMP 7174/02.) 5 PUTHUKUDI JAYARAJAN, KOTTOLI AMSOM AND DESOM, KOZHIKODE TALUK. (DIED) 6 PUTHUKUDI MOHANAN, KOTTOLI AMSOM AND DESOM, KOZHIKODE TALUK. 7 M.T.KARTHYAYNI, W/O LATE M.T.CHATHUNNI, RANI NIVAS, MANGOTTUVAYAL, KOTTOOLI, CALICUT - 16.(DELETED). 8 M.T.PRABHARANI D/O.LATE M.T.CHATHUNNI, RANI NIVAS, MANGOTTUVAYAL, KOTTOOLI, CALICUT - 16 [DELETED] 9 M.T.SHAREENA, D/O.LATE M.T.CHATHUNNI RANI NIVAS, MANGOTTUVAYAL, KOTTOOLI, CALICUT - 16 [DELETED] 10 M.T.SHAJI S/O.LATE M.T.CHATHUNNI, RANI NIVAS, MANGOTTUVAYAL, KOTTOOLI, CALICUT - 16 [DELETED] 11 M.T.RAJULA, D/O.LATE M.T.CHATHUNNI, RANI NIVAS, MANGOTTUVAYAL, KOTTOOLI, CALICUT - 16(DELETED) (SUPPLEMENTAL APPELLANTS 7 TO 11 ARE IMPEADED AS THE LEGAL HEIRS OF THE DECEASED 1ST APPELLANT

-: 2 :-

AS PER ORDER DATED 29.05.2000 IN CMP.NO.1914/2000). (THE COMPROMISE BETWEEN APPELLANTS 7 TO 11 AND THE 1ST RESPONDENT IS RECORDED VIDE ORDER DATED 14.11.2014 IN CMP FROM THE PARTY ARRAY VIDE ORDER DATED 14.11.2014 IN CMP 2532/02). 12 M.VILASINI AGED 55 YEARS W/O.P.SREENIVASAN, RESIDING AT HOUSE NO.29/13A, SISIRAM, OZHIYAPARAMBATH, KOTTOLI PO., KOZHIKODE DISTRICT. 13 SHINNU P AGED 34 YEARS D/O.P.SREENIVASAN, RESIDING AT HOUSE NO.29/13A, SISIRAM, OZHIYAPARAMBATH, KOTTOLI PO., KOZHIKODE DISTRICT. 14 SHIJU P AGED 31 YEARS S/O.P.SREENIVASAN, RESIDING AT HOUSE NO.29/13A, SISIRAM, OZHIYAPARAMBATH, KOTTOLI PO., KOZHIKODE DISTRICT. 15

SHIBU.P, AGED 30 YEARS S/O.P.SREENIVASAN, RESIDING AT HOUSE NO.29/13A, SISIRAM, OZHIYAPARAMBATH, KOTTOLI PO., KOZHIKODE DISTRICT. (LEGAL HEIRS OF DECEASED 2ND APPELLANT ARE IMPEADED AS ADDITIONAL APPELLANTS 12 TO 15 VIDE ORDER DATED 24.11.2015 IN I.A.NO.710 OF 2007). 16 SAJITHA, AGED 54 YEARS W/O.JAYARAJAN K.P., NANGOLATH MEETHAL HOUSE, NEAR NANGOLATH TEMPLE, NELIKODDU P.O., KOZHIKODE, PIN- 673017. 17 K.P.SREESHMA, AGED 32 YEARS D/O.JAYARAJAN, NANGOLATH MEETHAL HOUSE, NEAR

-: 3 :- NANGOLATH TEMPLE, NELIKODDU P.O., KOZHIKODE, PIN- 673017. 18 SWETHA K.P., AGED 21 YEARS D/O.JAYARAJAN, NANGOLATH MEETHAL HOUSE, NEAR NANGOLATH TEMPLE, NELIKODDU P.O., KOZHIKODE, PIN- 673017. (LEGAL HEIRS OF DECEASED 5TH APPELLANT ARE IMPEADED AS ADDITIONAL APPELLANTS A16 TO A18 VIDE ORDER DATED 13.03.2019 IN I.A.NO.6 OF 2019). BY ADVS. SMT.SREEJA SOHAN K. SMT.R.REJI (ATTINGAL) RESPONDENTS / PLAINTIFF, DEFENDANTS 2 TO 5, 7, 9, 18 TO 32:

1 ATHIKOTTU PUTHENVEETIL PREMANANTHAN, .S/O SAMI SIVANANDADAS, KOTTOLI AMSOM, PARAYANCHERI DESOM, KOZHIKODE TALUK.(PLAINTIFF) 2 CHOORAKATHU AYYAPPAN, S/O.RARICHUTTY, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT. (D2) 3 CHOORAKKATTU KUMARAN, S/O.RARICHUTTY, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT.(D3) 4 CHOORAKKATHU SAMIKUTTY, S/O.VELAYUDHAN, (D4) (DELETED). 5 CHOORAKKATHU SANKARAN, S/O.VELAYUDHAN, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT.(D5) 6 CHOORAKATHU RAJAN, S/O.VELAYUDHAN, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT. (D7) 7 CHOORAKATHU DAMODARAN, S/O.VELAYUDHAN, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT.(D9)

-: 4 :-

8 ALAMPATH MOHANDAS, S/O.CHAYICHAN, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT. (D18) (DIED). 9 MULLATH VISWANATHAN, S/O.CHATHUKUTTY, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT. (D19)(DELETED). 10 AVULLOTHU THARUPAYI HAJI, S/O.MOIDEEN, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT.(D20) (DELETED) 11 SAITHAMPADAKATH KUNDILA PURAYIL ABDUL RAZACK, S/O.KUNHAMU HAJI, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT. (D21) 12 MAVILI PARAMBATH LEELA, W/O.CHOORAKKATHU CHANDRAN, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT. (D22) 13 MAVILA PARAMBATH JAYAN, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT. (D23) 14 MAVILI PARAMBATH RAJANI, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT. (D24) 15 MAVILI PARAMBATH KUTTAN, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT. (D25) 16 MAVILI PARAMBATH GANESAN, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT. (D26) 17 THANKAM, W/O.CHOORAKKATTU BALAN, -DO- (D27) 18 SUSHAMA, D/O.CHOORAKKATTU BALAN, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT. (D28) (DELETED)(RESPONDENTS 4, 9, 10 AND 18 ARE DELETED FROM THE PARTY ARRAY OF APPEAL AS PER ORDER DATED 14.11.2014 IN I.A.NO. 19 CHOORAKKATHU JANU ALIAS JANAKI, W/O.CHOORAKKATTU RAMAN, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT. (D29) 20 THANKAM, D/O.KIZHAKKE MAVILI THAMASAM KUNIYIL CHATHU NAIR, W/O.KOLLERI CHANDRAN, KOTTOLY AMSOM AND

-: 5 :-

DESOM, KOZHIKODE DT. (D30) 21 SANTHA, D/O.KIZHAKKE MAVILI THAMASAN KUNIYIL CHATHU NAIR KOTTOLY AMSOM AND DESOM, KOZHIKODE DT. (D31) 22 UNNIKRISHNAN, KOTTOLY AMSOM AND DESOM, KOZHIKODE DT.(D32) (DEFENDANTS 22 TO 26/RESPONDENTS 12 TO 17 ARE L.RS. OF DECEASED DEFENDANT

NO.6.DEFENDANTS 27 AND 28/RESPONDENTS 17 AND 18 ARE L.RS. OF DECEASED 8TH DEFENDANT. DEFENDANT 29/RESPONDENT NO.19 IS THE L.R. OF DECEASED DEFENDANT NO.1. DEFENDANT NO.30 TO 32/RESPONDENT 20, 21,22 ARE L.RS. OF DECEASED 14TH DEFENDANT. DEFENDANT NO.15 STRUCK OFF AS PER ORDER DATED 20.08.88.). 23 SARASWATHY, AGED 70 YEARS W/O.LATE ALAMPATH MOHANDAS, KOTTOLLI AMSOM, PARAYANCHERI DESOM, KOZHIKODE TALUK. (DIED). 24 ANU PRIYARENJINI, AGED 40 YEARS D/O.LATE ALAMPATH MOHANDAS, KOTTOLLI AMSOM, PARAYANCHERI DESOM, KOZHIKODE TALUK. 25 ANITH PREMRAJESH, AGED 38 YEARS LATE ALAMPATH MOHANDAS, KOTTOLLI AMSOM, PARAYANCHERI DESOM, KOZHIKODE TALUK. (LEGAL HEIRS OF DECEASED R8 ARE IMPEADED AS ADDITIONAL RESPONDENTS R25 TO R28 VIDE ORDER DATED 13.03.2019 IN I.A.NO.2 OF 2019) (IT IS RECORDED THAT ADDITIONAL R23 DIED AND HER LEGAL HEIRS ARE ADDITIONAL RESPONDENTS 24 AND 25 ALREADY IN THE PARTY ARRAY VIDE ORDER DATED 13.03.2019 IN I.A.NO.5 OF 2019). BY ADVS. SRI.PRAKASH.S - R8 SRI.M.P.SREEKRISHNAN - R8 SMT.SHAHNA KARTHIKEYAN - R8 SRI.K.P.BALASUBRAMANYAN - R11

-: 6 :- SRI.NIRMAL.S - R11 SRI.BIJESH.K SMT,K.B.SONY - R3 SRI.P.T.MOHANKUMAR - R21,22 SRI.T.SETHUMADHAVAN (SR) - R1 SMT.N.DEEPA. SMT.P.V.PREETHI - R1 SRI.M.V.BALAGOPAL THIS APPEAL SUITS HAVING COME UP FOR ORDERS ON 05.03.2024, ALONG WITH AS.192/1998, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -: 7 :-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE SATHISH NINAN
TUESDAY, THE 5TH DAY OF MARCH 2024 / 15TH PHALGUNA, 1945
AS NO. 192 OF 1998 AGAINST THE JUDGMENT AND DECREE

DATED 28.10.1996 IN OS NO.155 OF 1986 OF SUB COURT,KOZHIKODE APPELLANTS / 18TH DEFENDANT:

1 A.C.MOHANDAS MAVELLITHAZHAM, PO.KOTTULI, CALICUT -16. [DECEASED] ADDL.A2 P.V.SARASWATHI W/O.LATE A.C.MOHANDAS, RAJANEESH, MAVELLITHAZHAM, P.O.KOTTULI, CALICUT-16.[DIED] ADDL.A3 NARAYANI MOTHER OF LATE A.C.MOHANDAS, ALAMBATH HOUSE, APSARA THEATRE COMPOUND, KALLAI ROAD, CALICUT -2. [DIED] ADDL.A4 A.M.ANNPRIYA RAJA D/O.LATE A.C.MOHANDAS, ALAMBATH HOUSE, APSARA THEATRE COMPOUND, KALLAI ROAD, CALICUT - 2. ADDL.A5 A.M.ANITH PREM RAJESH S/O.LATE A.C.MOHANDAS, ALAMBATH HOUSE, APSARA THEATRE COMPOUND, KALLAI ROAD, CALICUT -2 ADDL. APPELLANTS 2 TO 5 ARE IMPEADED AS THE LEGAL REPRESENTATIVES OF THE DECEASED SOLE APPELLANT VIDE ORDER DATED 25/8/2000 IN CMP.4436 OF 2000 IT IS RECORDED THAT SECOND APPELLANT DIED AND ADDITIONAL APPELLANTS 4 AND 5 ALREADY IN THE PARTY ARRAY ARE THE LEGAL REPRESENTATIVES OF DECEASED SECOND APPELLANT VIDE ORDER DATED

-: 8 :- BY ADVS. SMT.SHAHNA KARTHIKEYAN SRI.M.P.SREEKRISHNAN RESPONDENTS / PLAINTIFF, DEFENDANTS 2 TO 4, 7, 9, 10 TO 13, 16 AND 17, 19 TO 32:

1 ATHIKOTTUPUTHAN VETTIL PREMANAND S/O.SWAMI SIVANANDA DAS, KOTTULI AMSOM AND PARAYANCHERI DESOM, KOZHIKODE TALUK. (PLFF). 2 CHOORAKKATTU AYYAPPAN S/O.RARICHUTTY, KOTTULI AMSOM AND DESOM, KOZHIKODE TALUK (D2). 3 D. KUMARAN OF KOTTULI AMSOM AND DESOM, KOZHIKODE TALUK. (D3) 4 CHOORAKKATTU SAMIKUTTY [DELETED] S/O.VELAYUDHAN, KOTTULI AMSOM AND DESOM, KOZHIKODE TALUK. (D4) [D5 IS DEAD AND D6 DEAD] 5 CHOORAKKATTU RAJAN S/O.VELAYUDHAN, OF KOTTULI AMSOM

AND DESOM, KOZHIKODE TALUK.(D7) 6 CHOORAKKATTU DAMODARAN [DELETED] S/O.VELAYUDHAN, OF KOTTULI AMSOM AND DESOM, KOZHIKODE TALUK.(D9) RESPONDENTS 4 AND 6 ARE DELETED FROM THE PARTY ARRAY AT THE RISK OF THE APPELLANTS VIDE ORDER DATED 8/4/2019 IN I.A. 2628 OF 2015 7 METHAL THODIYIL CHATHUNNI KOTTULI AMSOM AND DESOM, KOZHIKODE TALUK (D10). (DIED) 8 PARAMBALATH SREENIVASAN OF KOTTULI AMSOM AND DESOM, KOZHIKODE TALUK. (D11). 9 EDAKANDIYIL DASAN OF KOTTULI AMSOM AND DESOM, KOZHIKODE TALUK. (D12)

-: 9 :- 10 KOLLARAKKAL RAGHAVAN OF KOTTULI AMSOM AND DESOM, KOZHIKODE TALUK.

(D13) THE COMPROMISE BETWEEN THE FIRST

RESPONDENT AND TENTH RESPONDENT IN THE APPEAL IS RECORDED VIDE ORDER DATED 17/2/2003 IN CMP 11 PUTHUKUDI JAYARAJAN OF KOTTULI AMSOM AND DESOM, KOZHIKODE TALUK. (D17).(DIED) 12 PUTHUKUDI MOHANAN (D 17) 13 MULLATH VISWANATHAN S/O.CHATHUKUTTY, KOTTULI AMSOM AND DESOM, KOZHIKODE DIST., (D 19).[DELETED] 14 AUVULLOTHU THARUPAYIL HAJI S/O.MOIDEEN, KOTTULI AMSOM AND DESOM, KOZHIKODE DIST. (D20) 15 SAITHAMPADAKATH KUNDILAPURAYIL ABDUL RAZACK S/O.KUNHAMU HAJI, KOTTULI AMSOM AND DESOM, KOZHIKODE DIST. (D21) 16 MAVILIPARAMBATH LEELA W/O.CHOORAKKATU CHANDRAN, OF KOTTULI AMSOM AND DESOM, KOZHIKODE DIST. (D22)[DELETED] 17 MAVILI PARAMBATH JAYAN OF KOTTULI AMSOM AND DESOM, KOZHIKODE DIST.. (D23) 18 MAVELI PARAMBATH RAJANI OF KOTTULI AMSOM AND DESOM, KOZHIKODE DIST. (D24) 19 DO.KUTTAN OF KOTTULI AMSOM AND DESOM, KOZHIKODE DIST. (D25) 20 DO.GANESHAN OF KOTTULI AMSOM AND DESOM, KOZHIKODE DIST. (D26) 21 THANKAM W/O.CHURAKKATTU BALAN, (D27)

-: 10 :- 22 SUSHAMA D/O.CHURAKATTU BALAN. (D28) 23 CHURAKKATTU JANU ALIA JANAKI W/O.CHURAKKTTU RAMAN, (D29) [DELETED] 24 THANKAM D/O.KIZHAKKE MAVELI THAMASAM KUNIYIL CHATHU NAIR. (D30) 25 SANTHA D/O.KIZHAKKE MAVILI THAMASAM KUNIYIL CHATHU NAIR, (E31) [DELETED][THE NAMES OF RESPONDENTS 13,16,23 AND 25 STRUCK OFF FROM THE PARTY ARRAY OF THE APPEAL AT THE RISK OF THE APPELLANTS VIDE

ORDER DATED 24.11.2015 IN IA 2814/14.]

26 UNNIKRISHNAN S/O.DO. DEFENDANTS 22 TO 28 ARE LRS OF DEFENDANTS NO.6. DEFENDANTS 27 AND 28 LRS OF DECEASED 8TH DEFT. 29TH DEFENDANT IS LRS OF 1ST DEFENDANT. DEFENDANTS 30 TO 32 ARE LRS OF 14TH DEFENDANT. DEFT. NO.15TH NAME STRUCK OFF.

ADDL.R27 M.T.KARTHYAYANI D/O.LATE M.T.CHATHUNNI, RANI NIVAS, MANGOTTAVAYAL, KOTTOOLI, CALICUT -16 ADDL.R28 M.T.PRABHARANI. D/O.D/O.LATE M.T.CHATHUNNI, RANI NIVAS, MANGOTTAVAYAL, KOTTOOLI, CALICUT -16 ADDL.R29 M.T.SHAREENA D/O.D/O.LATE M.T.CHATHUNNI, RANI NIVAS, MANGOTTAVAYAL, KOTTOOLI, CALICUT -16 ADDL.R30 M.T.SHAJI S/O.LATE M.T.CHATHUNNI, RANI NIVAS, MANGOTTAVAYAL, KOTTOOLI, CALICUT -16 ADDL.R31 M.T.RAJULA

D/O.LATE M.T.CHATHUNNI, RANI NIVAS, MANGOTTAVAYAL, KOTTOOLI, CALICUT -16. LEGAL REPRESENTATIVES OF DECEASED R7 ARE IMPEADED AS

ADDITIONAL RESPONDENTS R27 TO 31 VIDE ORDER

DATED 8/4/19 OM CMP NO.4781/2000 ADDL.R32 SUJATHA -: 11 :- AGED 51 YEARS W/O.JAYARAJAN K.P. NANGOLATH MEETHAL HOUSE, NEAR NANGOLATH TEMPLE, NELLIKKODU P.O., KOZHIKODE 670 ADDL.R33 K.P.SREESHMA AGED 32 YEARS NANGOLATH MEETHAL HOUSE, NEAR NANGOLATH TEMPLE, NELLIKKODU P.O., KOZHIKODE 670 017 ADDL.R34

SWETHA K.P

AGED 21 YEARS NANGOLATH MEETHAL HOUSE, NEAR
NANGOLATH TEMPLE, NELLIKKODU P.O., KOZHIKODE 670 017
[LEGAL REPRESENTATIVES OF DECEASED R11 ARE IMPEADED
AS ADDITIONAL RESPONDENTS R32 TO R34 VIDE ORDER DATED
8/4/2019 IN I.A.1/2019 BY ADVS. SRI.T.SETHUMADHAVAN (SR.) -R1
SMT.N.DEEPA SMT.P.V.PREETHI - R1 SRI.M.V.BALAGOPAL
SRI.V.V.SURENDRAN - R10 SRI.S.V.BALAKRISHNA IYER - R15
SRI.K.JAYAKUMAR SRI.P.B.KRISHNAN

THIS APPEAL SUITS HAVING COME UP FOR ORDERS ON 05.03.2024,
ALONG WITH AS.434/1997, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: -: 12 :-

Sathish Ninan, J.

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===== Dated this the 5th day of March,
2024

JUDGMENT

The appeals were listed on 04/03/2024 on which day, there was no representation for the appellants and the cases are adjourned to this day.

2. Today also, there is no representation for the appellants. Hence, the appeals are dismissed for non- prosecution. Sd/- Sathish Ninan, Judge rsr

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