

Johnson vs Ouseph

Johnson vs Ouseph

SooperKanoon Citation : sooperkanoon.com/1351869

Court : Kerala

Decided On : May-30-2023

Judge : Honourable Mr. Justice Anil K.Narendran,Honourable Mr.Justice P.G. Ajithkumar

Appeal No. : FAO/352/2011

Appellant : Johnson

Respondent : Ouseph

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN & THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR TUESDAY, THE 30TH DAY OF MAY 2023 / 9TH JYAISHTA, 1945 FAO NO. 352 OF 2011

AGAINST THE ORDER DATED 09.02.2010 IN I.A.NO.529 OF 2009 IN O.S.NO.138 OF 2007 ON THE FILE OF ADDITIONAL SUBORDINATE JUDGES COURT, IRINJALAKUDA APPELLANT/PETITIONER/PLAINTIFF: JOHNSON MUKUNDAPURAM TALUK, THRISSUR DISTRICT. SRI.LAL K.JOSEPH SMT.M.C.SANITHA SRI.V.S.SHIRAZ BAVA RESPONDENT/RESPONDENT/DEFENDENT:

OUSEPH MUKUNDAPURAM TALUK, THRISSUR DISTRICT - 685 051
SRI.V.M.KRISHNAKUMAR SRI.RENJITH THAMPAN SR. THIS FIRST
APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION ON
30.05.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

Anil K.Narendran, J.

The appellant is the plaintiff in O.S.No.138 of 2007 on the

file of the Additional Sub Court, Irinjalakkuda, which was one filed against the respondent herein-defendant for realisation of an amount of Rs.3,13,750/- together with interest at the rate of 12% per annum. The said suit was dismissed for default. Seeking restoration of the suit, the appellant filed I.A.No.529 of 2009, invoking the provisions under Order IX Rule 9 of the Code of Civil Procedure, 1908. That application ended in dismissal by the order dated 09.02.2010, which is under challenge in this appeal filed, invoking the provisions under

Order XLIII Rule 1(c) of the Code.

2. On 09.12.2011, when this appeal came up for admission, this Court issued notice to the respondent. The matter was referred for mediation, by the order dated 26.07.2012.

3. Today, when this matter is taken up for consideration,

the learned counsel for the appellant would submit that the appellant died and therefore, this appeal may be dismissed as abated. The learned counsel would also point out that nothing survives for consideration in this appeal. Based on the aforesaid submission made by the learned counsel for the appellant, this appeal is dismissed as abated. ANIL K. NARENDRAN, JUDGE P.G. AJITHKUMAR, JUDGE PV