

Abdul Gafoor vs Harees

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Court : Kerala

Decided On : Mar-17-2023

Judge : Honourable Mr. Justice a.Muhammed Mustaque,Honourable Mrs. Justice Shoba Annamma Eapen

Appeal No. : FAO/55/2016

Appellant : Abdul Gafoor

Respondent : Harees

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMMED MUSTAQUE & THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN FRIDAY, THE 17TH DAY OF MARCH 2023 / 26TH PHALGUNA, 1944 FAO NO. 55 OF 2016 AGAINST THE ORDER DATED 07.01.2016 IN I.A. 526/15 AND APPELLANT/PETITIONER/1ST DEFENDANT: ABDUL GAFOOR, AGED 41 YEARS, S/O.CHEKKU @ KUTTAPPA, PALATTUTHARAYIL VEEDU REPRESENTED BY POWER OF ATTORNEY HOLDER,SHEFEER, S/O.CHEKKU @ KUTTAPPA, AGED 33 YEARS PALATTUTHARAYIL VEEDU, EASWARA MANGALAM AMSOM, PUZHAMBARAM DESOM, PONNANI TALUK,

MALAPPURAM DISTRICT. BY ADV SRI.C.M.MOHAMMED IQUABAL
RESPONDENT/RESPONDENT/PLAINTIFF: HAREES, AGED 38
YEARS, S/O.THOTHUTHINGAL KUNHITTY, KOLALAMBU
AMSOM,POOKARATHARA DESOM, PONNANI TALUK,
MALAPPURAM DISTRICT 677 610 BY ADV SRI.JAMSHEED HAFIZ
THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR
ADMISSION ON 17.03.2023, ALONG WITH FAO.56/2016, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING: ..2..

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED
MUSTAQUE & THE HONOURABLE MRS. JUSTICE SHOBA
ANNAMMA EAPEN FRIDAY, THE 17TH DAY OF MARCH 2023 / 26TH
PHALGUNA, 1944 FAO NO. 56 OF 2016 AGAINST THE ORDER
DATED 07.01.2016 IN I.A. 528/15 AND

APPELLANT/PETITIONER/2ND DEFENDANT: NASEERA, AGED 36
YEARS, D/O.PULPRAYAKATH BAVA, EASWARA MANGALAM
AMSOM,PUZHAMBAM DESOM, PONNANI TALUK, MALAPPURAM
DISTRICT. BY ADV SRI.C.M.MOHAMMED IQUABAL
RESPONDENT/RESPONDENT/PLAINTIFF: HAREES, AGED 38
YEARS, S/O.THOTHUTHINGAL KUNHITTY, KOLALAMBU
AMSOM,POOKARATHARA DESOM, PONNANI TALUK,
MALAPPURAM DISTRICT. BY ADV SRI.JAMSHEED HAFIZ THIS
FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION
ON 17.03.2023, ALONG WITH FAO.55/2016, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING: ..3..

J U D G M E N T

A. Muhamed Mustaque, J These appeals have been filed by the defendants in O.S
No.192 of 2012 on the file of

the Sub Court, Tirur.

The appellants in these appeals a

decree was filed along with an application to condone the delay of 287 days. These applications have been dismissed. Challenging that, these appeals have been preferred.

2. Notice appears to have been served by way of affixture. The case of the appellant is that it is only when he received a notice in the execution petition, he came into know about the ..4..

suit. It is a money suit claiming Rs.20 Lakhs. 3. In the

court below noted that in the execution petition, notice was served on the wife and notice to the

husband was affixed on the house. So, there was suff

true that notice has been served on the wife and the fact remains that the husband was abroad. Taking note of the facts and circumstances, we are of the view that laches in these matters can be condoned on payment of cost of Rs.20,000/- in total. The cost shall be paid to the respondent through the learned counsel appearing for the respondent before

..5.. this Court within a period of two weeks. If the cost as above is paid, the ex-parte decree would stand set aside. The parties are directed to appear before the court below on 4.04.2023. Thereafter, the suit shall be disposed of within a period of four months thereon. Sd/- A.MUHAMED MUSTAQUE JUDGE Sd/- SHOBA ANNAMMA EAPEN JUDGE PR

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