

Benson Thomas vs Thomas Eugene

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Court : Kerala

Decided On : Jan-20-2023

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : RFA/498/2019

Appellant : Benson Thomas

Respondent : Thomas Eugene

Judgement :

IN "E HIGH COLJRT OF KERALA AT ERNAI(ULAM PRESENT THE HONOU RABLE MR. JUSTICE P.SOMARAJAN FRIDAY, THE 2" DAIY OF JA"u ARY 223 / 3TH P0u SHA, 1944 a_EA_ NO. 498 OF 2Qq AGAINST THE JUDGMENT AND DECREE DATED 5.01.2017 IN OS 167/210 OF SuB COURT, NEYYATTINKARA AppELLANTr3RD DEFENDANT};_ BENSON THOMAS, AGED 34 YEARS, S/O. LATE THOMAS BROOM, BARBARA NIVAS, KARUMKULAM P.O., KARUMKULAM VILLAGE, NEYYATTINKARA TALUK, THIRUVANANI THAPURAM DISTRICT-695 526 BY ADVS. V . G . ARUN SMT.V.JAYA RAGI SMT. INDULEKHA JOSEPH SRI. NEERAJ NARAYAN BEsrml_DENTtpL.AINTIFF;DEFEMDAHTs 1. 2 ARID 4i

1 THOMAS EUCINE, AGED 65 YEARS, S/O. THOMAS, VRIDAVAN, KOTTAMPALLY ROAD, RATTARADA P.O. , KULATHUMMAL VILLAGE, NEYYATTINRARA, THIRUVANANTHAPURAM DISTRICT-695572 2 LOURD MARY, AGED 66 YEARS, D/O.MUTHAMMAL, BARBARA NIVAS, KARUMKULAM P.O. , RARUMKULAM VILLAGE, NEYYATTINKARA TALUK, THIRUVANANTHAPURAM DISTRICT (DIED AFTER THE DECREE)-695 526 TEENA BELLA BARBARA, AGED 37 YEARS, D/O. LOURD MARY, BARBARA NIVAS, KARUMKULAM P.O. , KARUMKULAM VILLAGE, NEYYATTINRARA TALUK, THIRUVANANTHAPURAM DISTRICT-695 526 BERIN THOMAS, AGED 32 YEARS, S/O. LATE THOMAS BROOM, BARBARA NIVAS, KARUMKULAM P.O., KARUMKULAM VILLAGE, NEYYATTINKARA TALUK, THIRUVANANTHAPURAM DISTRICT-695 526 RI BY ADVS. SRI.T.C.SURESH MENON SRI . P . S . APPU R3 AND R4 BY ADV. SARATIJ SUKUMARAN

THIS REGULAR FIRST APPEAL HAVING COME UP FOR HEARING ON 20.1.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: RFA NO. 498 OF 2019

JUDGMENT

The matter has been settled in mediation. The mediation report is received. Hence, the appeal is disposed of in terms of the compromise arrived at by

the parties and it will form part of the judgment

and decree. Refund the entire court fee under Section 69A of the Kerala Court Fees and Suits Valuation Act to the appellant. Sd/. P . SOMARAJAN JUDGE msp The Nodal Officer, High Court Mediation Centre. TO The Registrar (Judicial) High Court of Kerala, Ernakulam Sir' Sub : Mediation of case referred by the Hon'ble High Court of Kerala - reg. Ref.g::::ra.':#i.\:)l:...,.....'f:t:..A.6.h;qj:'High'cq;i.it";f.K.eL.;.l; +(,y I am to forward herewith Report of the Mediator in the matter along with the enclosures for information and necessary action, Yours Faithfully, EIEE[.i:'

(w) (irf r`rfFirirp -, Nodal Officer, v// Encl:-1. Report Of the Mediator, Settlement

2. Copy of the referral order dated .fo:l.t".}.L. of the High Court of Kerala

3. Copy of the Petition

BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM R.F.A. No.498/2019 Benson Thomas Appellant Vs. Thomas Eugene and others Respondents Eligo RT SuMITTED BY MEDIATOR ADV. S. K.BALACHANDRAN Mediated and the matter is settled. The memorandum of settlement is enclosed herewith. Dated this the 12th day of January, 2023. }x/ e

r Adv. S.K. Balachandran Mediator BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM R.F.A, NO.498/2019 Benson Thomas Appellant Vs. Thomas Eugene and others Respondents MEMORANDUM OF AGREEMENT UNDER SECTION 89 OF THE CODE OF CIVIL PROCEDURE READ WITH RULES 24 & 25 OF THE CIVIL PROCEDURE (ALTERNATIVE DISPUTE RESOLUTION), RULES, 2008: The 2nd Respondent in the above case is no more. In view of the settlement arrived at, both parties agree that the Respondents 3 & 4 are not necessary parties to this Settlement Agreement.

The Appellant agrees to pay a lump sum amount of Rs.18,00,000/- (Rupees Eighteen Lakhs only) to the 1st Respondent towards the full and final settlement of the disputes in the above case. Out of the said amount of Rs.18 Lakhs, Rs.10 Lakhs will be paid within four months from today and the balance amount of Rs.8 Lakhs will be paid within eight months from today.

The 1st Respondent is agreeable for the said proposal.

3. If the Appellant fails to pay the amounts mentioned above within the

agreed period the decree of the trial Court shall stand revived and the decree holder/plaintiff shall be entitled to execute the decree of the trial Court after the agreed period. -tos.ct j;3iL..1` ``-'` .l..` ,ienre `u...l'l) -2-

4. The Appellant agrees to deposit the amounts as stated above in the Bank Account of the 1st Respondent i.e., Account Number 853310110002362, I FSC BKID0008533 in the Bank of India, Kattakkada Branch.

5. Both parties agree to keep the execution of the decree pending till the full satisfaction of the terms of above settlement.

6. Both parties agree that the above First Appeal be decreed in terms of the above settlement.

7. The Court Fee paid in the above case may be ordered to be refunded

to the Appellant. Dated this the 12th day of January, 2023. Appellant 1st Respondent Benson Thomas Thomas Eugine, I +#atrEifpgftankfp2/9 Counsel for the Counsel for the 1st Respondent !{ 3.:3!.'-. r..-`-~^rt~:-:.: '.rnc9ntr@).

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