

**Krishnan vs Lekha**

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**SooperKanoon Citation :** [sooperkanoon.com/1389717](https://sooperkanoon.com/1389717)

**Court :** Kerala

**Decided On :** Jun-20-2023

**Judge :** Honourable Mr. Justice P.Somarajan

**Appeal No. :** OP(C)/2219/2018

**Appellant :** Krishnan

**Respondent :** LEKHA

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN  
TUESDAY, THE 20TH DAY OF JUNE 2023 / 30TH JYAISHTA, 1945  
OP(C) NO. 2219 OF 2018 AGAINST THE ORDER/JUDGMENTOS  
21/2014 OF MUNSIFF COURT, PUNALUR PETITIONER/S: 1  
KRISHNAN AGED 93 YEARS S/O NARAYANAN, PUTHEN VILA  
VEEDU, KARUKONE (P.O.), ALAYAMON, PIN - 691 306. 2 SALEELA  
AGED 1 YEARS D/O.KRISHNAN, PUTHEN VILA VEEDU, KARUKONE  
(P.O.), ALAYAMON, PIN - 691 306. BY ADVS. SREEDEVI  
KYLASANATH SRI.DEAGO JOHN K R. MAHESH MENON ACHUTH  
KYLAS RESPONDENT/S: 1 LEKHA W/O SAIJU, CHITHIRA,  
PANAYAMKARA, EROOR VILLAGE - 691 312. 2 SAIJU AGED 1

YEARS CHITHIRA, PANAYAM KARA, EROOR VILLAGE - 691 312. BY ADVS. JESSY S.SALIM JESSY S.SALIM A.D.SHAJAN THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 20.06.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## **JUDGMENT**

Earlier, a suit was filed for declaring the execution of a sale deed as vitiated by fraud and other grounds.

2. In the suit, the prayer is for declaring the

said document as null and void, instead of setting aside the same, on the ground of alleged vitiating grounds. The plaint was drafted very poorly. Subsequently, an amendment application was submitted by which the earlier prayer for declaring the document as null and void sought to be deleted from the suit, by substituting another prayer for declaration of the right, title and interest of the plaintiff over the property, without seeking any relief to set aside the document alleged to have been executed in favour of the defendant.

3. Quite interestingly, an impleadment

application was dismissed by the Trial Court on the ground that there is no consequential amendment sought by the plaintiff. Yet another application submitted for amendment was also dismissed by the Trial Court without assigning any reason. At the fag end of the argument, the learned counsel for the petitioner fairly submitted that they are intending to file another application for amendment for incorporating a prayer by restoring the earlier relief of declaring the document null and void or in the alternative to set aside the same.

4. The impugned order Ext.P3 hence will

stand set aside for enabling the plaintiff to file a fresh application for amendment for the ends of justice. As discussed earlier, the plaint is drafted very poorly and the blame shall not be placed on the shoulder of the plaintiff. Hence for a fair determination of the issue involved in the suit, it is fit and proper to grant an

opportunity to the plaintiff to amend the plaint and with that right, the present petition will stand allowed by setting aside Ext.P3 order. OP(C) will stand allowed accordingly. Sd/- P. SOMARAJAN JUDGE SM APPENDIX OF OP(C) 2219/2018 PETITIONER EXHIBITS EXHIBIT P1 THE TRUE COPY OF THE ORIGINAL PLAINT O.S.NO.21 OF 2014 FILED BEFORE THE HONOURABLE MUNSIF COURT, PUNALUR. EXHIBIT P1 THE TRUE COPY OF THE AMENDED PLAINT O.S.NO.21 OF 2014 DATED 08/01/2014 FILED BEFORE THE HONOURABLE MUNSIF COURT, PUNALUR. EXHIBIT P2 THE TRUE COPY OF THE I.A.351 OF 2018 IN O.S.NO.21 OF 2014 FIELD BEFORE THE HONOURABLE MUNSIF COURT, PUNALUR. EXHIBIT P3 THE TRUE COPY OF THE ORDER IN I.A.351 OF 2018 IN O.S.NO.21 OF 2014 DATED 05/07/2018 OF THE HONOURABLE MUNSIF COURT, PUNALUR. RESPONDENTS EXHIBITS : NIL //TRUE COPY// PA TO JUDGE

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