

Dr.Agnes George, vs Ajith Kumar,

Dr.Agnes George, vs Ajith Kumar,

SooperKanoon Citation : sooperkanoon.com/1443721

Court : Kerala Orders

Decided On : Jan-25-2022

Judge : Honourable Mr. Justice a. Badharudeen

Appeal No. : Tr.P(C)/47/2022

Appellant : Dr.Agnes George,

Respondent : Ajith Kumar,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A. BADHARUDEEN TUESDAY,
THE 25TH DAY OF JANUARY 2022 / 5TH MAGHA, 1943 TR.P(C) NO. 47 OF
2022 AGAINST THE ORDER IN OS 8/2019 OF SUB COURT, CHERTHALA
PETITIONERS/PLAINTIFFS :

1 DR.AGNES GEORGE, AGED 69 YEARS W/O. LATE LOUIS
GEORGE, RESIDING AT VILLUKEERI VALIYAVEETIL HOUSE, OUR
LADY'S HOSPITAL COMPOUND, KACHEIPADY, EDAKOCHI VILLAGE,
PALLURUTHY, KOCHI-682006. 2 DR. LOUIS JUDY GEORGE, AGED
41 YEARS S/O. LATE DR.LOUIS GEORGE, RESIDING AT
VILLUKEERI VALIYAVEETIL HOUSE, OUR LADY'S HOSPITAL

COMPOUND, KACHEIPADY, EDAKOCHI VILLAGE, PALLURUTHY, KOCHI-682006. REPRESENTED BY POWER OF ATTORNEY OF HOLDER DR.AGNAS GEORGE, AGED 69 YEARS, W/O. LATE LOUIS GEORGE RESIDING AT VILLUKEERI VALIYAVEETIL HOUSE, OUR LADY'S HOSPITAL COMPOUND, KACHEIPADY, EDAKOCHI VILLAGE, PALLURUTHY, KOCHI-682006. 3 DR. PATRICK GEORGE, AGED 35 YEARS W/O. LATE DR.LOUIS GEORGE, RESIDING AT VILLUKEERI VALIYAVEETIL HOUSE, OUR LADY'S HOSPITAL COMPOUND, KACHEIPADY, EDAKOCHI VILLAGE, PALLURUTHY, KOCHI-682006, NOW RESIDING OPPOSITE TO JALAVAYU VIHAR, NAVAL QUARTES, MUNDAMVELI, KOCHI-682507. REPRESENTED BY POWER OF ATTORNEY OF HOLDER DR.AGNAS GEORGE, AGED 69 YEARS,

Tr.P.(C)No.47 of 2022 ..2.. W/O. LATE LOUIS GEORGE RESIDING AT VILLUKEERI VALIYAVEETIL HOUSE, OUR LADY'S HOSPITAL COMPOUND, KACHEIPADY, EDAKOCHI VILLAGE, PALLURUTHY, KOCHI-682006. BY ADV K.P.UNNI RESPONDENTS/DEFENDANTS :

1 AJITH KUMAR, AGED ABOUT 48 YEARS, S/O. HAREENDRANATH, RESIDING NEAR KOTHOLINGO COMPOUND, S.P. PURAM COLONY, KOCHI-682006, NOW RESIDING AT SANTHI NIVAS, CHULLICKAL, KOCHI-682005. 2 MANJU BALA, AGED ABOUT 45 YEARS W/O. AJITH KUMAR, RESIDING NEAR KOTHOLINGO COMPOUND, S.P. PURAM COLONY, KOCHI-682006, NOW RESIDING AT SANTHI NIVAS, CHULLICKAL, KOCHI-682005.

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.01.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
Tr.P.(C)No.47 of 2022 ..3..

A.BADHARUDEEN, J.

2022

ORDER

In this case, the plaintiff in O.S.No.8 of 2019 pending before the Sub Court, Cherthala sought transfer the same to the Sub Court, Kochi highlighting their convenience on alleging that the respondents herein are dragging the suit. It is alleged further that the Sub Judge, Cherthala is not showing interest to dispose of the matter within the time frame fixed.

2. At the time of hearing, it was noticed that this Court directed the Sub Court, Cherthala to dispose of the suit within six months. Since it was found that the

order of this Court was not obeyed by the learned Sub

Judge, a report of the learned Sub Judge has been called Tr.P.(C)No.47 of 2022 ..4.. for. As per the report placed along with the case bundle, it appears that the learned Sub Judge is so lenient in the matter of adjourning the case ignoring the specific direction given by this Court. It is seen that the plaintiff also not shown any interest to proceed with this matter and the plaintiff sought time for payment of balance court fee and also sought adjournments repeatedly without giving evidence. Thereafter, this petition was filed to transfer the case.

3. On appraisal of the facts read along with the letter given by the learned Sub Judge, I am not inclined to allow this petition. Therefore, this petition for transfer stands dismissed.

4. However, the learned Sub Judge is directed

to dispose of the matter on or before close of summer vacation and the plaintiff is specifically directed to appear before the Court on 04.02.2022 for giving evidence and the court below is directed to list the matter in the special Tr.P.(C)No.47 of 2022 ..5.. list on that day after giving notice to the other side.

5. The reluctance on the part of the learned

Sub Judge to obey the order of this Court by finding excuse on the attitude of the parties cannot be justified and the same is noted with extreme displeasure. The learned Sub Judge is directed to expedite the trial and disposal of this case within the time frame now fixed to avoid contempt of court proceedings as well as disciplinary proceedings. Forward a copy of this order to the trial court by e-mail today itself, apart from forwarding a physical copy of the judgment within three days. Sd/- A.BADHARUDEEN, JUDGE rkj Tr.P.(C)No.47 of 2022 ..6.. APPENDIX OF TR.P(C) 47/2022 PETITIONER ANNEXURES Annexure I THE COPY OF THE SALE DEED BEARING NO.3239/1/15 OF SRO, PANAVALLY DATED Annexure II THE COPY OF THE STATEMENT ISSUED BY DHANALAKSHMI BANK DATED 01/02/2016 TO Annexure III THE COPY OF THE JUDGMENT OP(C) NO.112/2021 DATED 26/03/2021. Annexure IV THE COPY OF THE OP(C) NO.1958/2021 FILED BY THE RESPONDENTS AND OBTAINED THE INTERIM STAY DATED 01/11/2021. Annexure V THE COPY OF THE STATEMENT OF ALLEGATION REGARDING THE COURT FEES FILED BY THE RESPONDENTS DATED Annexure VI THE COPY OF THE REPLY FILED BY THE PETITIONER AGAINST THE ALLEGATION DATED 13/11/2021. Annexure VII THE COPY OF THE REVIEW PETITION FILED

BY THE PETITIONER AGAINST THE ORDER

DATED 27/11/2021. Annexure VIII THE COPY OF THE AMENDMENT PETITION FILED BY THE PETITIONER DATED Annexure IX CERTIFIED COPY OF PLANT IN OS NO.8/2019 OF SUB COURT, CHERTHALA DATED 11/04/2019.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com