

C S Mathai vs K a Abraham

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Court : Kerala

Decided On : Jan-25-2022

Judge : Honourable Mr. Justice a. Badharudeen

Appeal No. : OP(C)/153/2022

Appellant : C S Mathai

Respondent : K a Abraham

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
AGAINST ORDER DATED 23.01.2021 IN O.P.(T.P.)NO.40/2020 ON
THE FILE OF DISTRICT COURT, PATHANAMTHITTA

PETITIONER/4TH PETITIONER: C S MATHAI SO THOMAS SAMUEL,
CHANJAPLACKAMANNIL VEEDU, ELANTHOOR EAST MURI,
ELANTHOOR VILLAGE PATHANAMTHITTA, PIN - 689643 BY ADVS.
V.PHILIP MATHEWS GIBI.C.GEORGE E.RADHAKRISHNAN AMAL
PARTHASARADHY RESPONDENTS/RESPONDENT AND
PETITIONER 1 TO 3 AND 5: 1 K A ABRAHAM KOLEDATHU
PARAMBIL MILI VILLA, ELANTHOOR EAST MURI, ELANTHOOR

VILLAGE PATHANAMTHITTA, PIN - 689692 2 ALEYAMMA CHERIYAN
AGED 78 YEARS PANGATTETHEKKETHIL VEEDU, THURUTHIMEL
MURI, CHERIANADU VILLAGE PATHANAMTHITTA, PIN - 689511 3
RAHELAMMA AGED 71 YEARS PODIPPARA VEEDU, AYROOR
SOUTH MURI, AYROOR VILLAGE PATHANAMTHITTA, PIN - 689611 4
JOLLY JOHN THATTAMANNIL VEEDU, VENNIKKULAM MURI,
PURAMATTOM VILLAGE PATHANAMTHITTA, PIN - 689544 5
MARIAMMA JOY AGED 63 YEARS MELATHU VEEDU,
KIZHAKKUPURAM, KONNY THAZHAM MURI, KONNY THAZHAM
VILLAGE PATHANAMTHITTA, PIN - 689692 THIS OP (CIVIL) HAVING
COME UP FOR ADMISSION ON 25.01.2022, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 25th day of January, 2022 The petitioner, who is the 6th plaintiff in O.S.No.278/2002 pending before the Munsiff Court, Ranny, has filed this Original Petition under Article 227 of the Constitution of India, aggrieved by

order dated 23.01.2021 in O.P.(TP) No.40/2020 on the file of the

District Court, Pathanamthitta, whereby his prayer to transfer the said case to Munsiff Court, Pathanamthitta has been dismissed.

2. Heard the learned counsel for the petitioner on admission.

3. It is submitted by the learned counsel for the petitioner

that the subject matter of the suit is originally within the jurisdiction of Munsiff Court, Pathanamthitta. However for convenience, at an earlier point of time, the above suit was transferred to Munsiff Court, Ranny. According to the learned counsel for the petitioner, now the petitioner is not in a position to travel 25 Kms from his residential place to contest the matter and, therefore, the suit required to be transferred to Munsiff Court, Pathanamthitta for the convenience of the petitioner.

4. The learned counsel for the petitioner pressed for

transfer of a case of the year 2002 now pending before the Munsiff Court, Ranny. I have perused the order of the learned District Judge. The learned District Judge observed that two cases, viz., O.S.No.278/2002 and O.S.No.280/2002 were jointly tried and disposed off. Thereafter, on appeal both these cases were remanded back in appeal. Therefore, there was no justification for the transfer to have further delay in disposal of the oldest cases. On appraisal of the facts as aforesaid, I am not inclined to interfere with the order impugned and I am of the view that the transfer sought for, cannot be allowed for the reasons above stated and observed by the learned District Judge. In view of the matter this Original Petition deserves no merits and is dismissed. Sd/- A. BADHARUDEEN JUDGE nkr APPENDIX OF OP(C) 153/2022 PETITIONER EXHIBITS Exhibit P1 COPY OF OP(TRANSFER) NO.40/2020 FILED BEFORE DISTRICT COURT, PATHANAMTHITTA Exhibit P2 COPY OF ORDER DATED 23-01-2021 IN O.P(TP) NO.40/2020 ON THE FILE OF DISTRICT COURT, PATHANAMTHITTA

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