

Ramakrishnan vs Khadeeja

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Court : Kerala

Decided On : Feb-09-2022

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : FAO/17/2022

Appellant : Ramakrishnan

Respondent : Khadeeja

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN
WEDNESDAY, THE 9th DAY OF FEBRUARY 2022 / 20TH MAGHA,
1943 FAO NO. 17 OF 2022 AGAINST THE ORDER DATED 24.11.2021
IN IA No.1277/2021 IN OS No.139/2021 OF ADDITIONAL SUB COURT,
PALAKKAD

APPELLANTS/RESPONDENTS/DEFENDANTS: 1 RAMAKRISHNAN,
AGED 65 YEARS, S/o ETTAN, PARLI II VILLAGE, PALAKKAD TALUK
AND DISTRICT, PIN 678612 2 RAMESH K.R., AGED 33 YEARS, S/o
RAMAKRISHNAN, PARLI II VILLAGE, PALAKKAD TALUK AND
DISTRICT, PIN-678612 BY ADV R.SREEHARI

RESPONDENTS/PETITIONERS/PLAINTIFFS: 1 KHADEEJA, AGED 70 YEARS, W/o LATE MOIDEENKUTTY, POST, OTTAPPALAM TALUK, PALAKKAD DISTRICT, PIN 679505 2 NOORJAHAN K., AGED 39 YEARS, D/o LATE MOIDEENKUTTY,

RESIDING AT PURPLE-4, JAYARAJ SPECTRUM FLAT, VADAKKODE POST, KOCHI, ERNAKULAM DISTRICT, PIN - 682 021.

3 SHOWKKATHALI, AGED 38 YEARS, S/o LATE MOIDEENKUTTY, POST, OTTAPPALAM TALUK, PALAKKAD DISTRICT, PIN -679 505. THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION ON 09.02.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: FAO No.17 of 2022 2

JUDGMENT

Aggrieved by the order of attachment at the trial stage

under Order 38 CPC, the defendants came up on two grounds, firstly that there is no fair chance of decreeing the suit since it is pertaining to a contingent contract, secondly that one of the items of property is sufficient to meet the requirement of a decree that may be passed in the suit. Regarding the first ground, what has to be satisfied is the existence of a debatable case, for which a detailed enquiry

at this stage is not required. Only a prima facie satisfaction of existence of a debatable case is required.

Regarding the second ground, admittedly certificate, if it is found that one of the properties is sufficient to meet the requirement, the appellant will get a chance to agitate the same at any proper stage. Hence, there is no ground to admit the appeal. The appeal is

FAO No.17 of 2022 3dismissed in

competent authority before the trial court. Sd/- P.SOMARAJAN JUDGE DMR/-