

Standly vs Pushpalatha

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Court : Kerala

Decided On : Feb-05-2021

Judge : Honourable Mr. Justice Sathish Ninan

Appeal No. : OP(C)/1554/2020

Appellant : Standly

Respondent : Pushpalatha

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE SATHISH NINAN
FRIDAY, THE 05TH DAY OF FEBRUARY 2021 / 16TH MAGHA,1942
AGAINST THE ORDER DATED 15.06.2020 IN OS 102/2013 OF SUB
COURT,NEYATTINKARA ----- PETITIONERS:

1 STANDLY AGED 52 YEARS S/O. THANKARAJ, RAHUL BHAVAN,
MEKKE MAVADITHALA, KOCHUTTUKONAM, MARIYAPURAM,
CHENKAL DESOM, CHENKAL VILLAGE 2 LIJI AGED 44 YEARS W/O.
STANDLY, RAHUL BHAVAN, MEKKE MAVADITHALA,
KOCHUTTUKONAM, MARIYAPURAM, CHENKAL DESOM, CHENKAL
VILLAGE BY ADV. SRI.S.MOHAMMED AL RAFI RESPONDENTS: 1

PUSHPALATHA AGED 49 YEARS W/O. LATE THOMAS, GRACE BHAVAN, KARIKKINVILA, CHENKAL DESOM, CHENKAL VILLAGE, THIRUVANANTHAPURAM - 695132. 2 SAMUEL THOMAS AGED 17 YEARS S/O. LATE THOMAS, GRACE BHAVAN, KARIKKINVILA, CHENKAL DESOM, CHENKAL VILLAGE, THIRUVANANTHAPURAM - 695132. (MINOR) (REPRESENTED BY 1ST RESPONDENT) 3 SUJAN AGED 35 YEARS S/O. SREEDHARAN, THAZHEKAMUKINKUZHI VEEDU, KOCHOTTUKONAM, MARIYAPURAM P O, CHENKAL VILLAGE, THIRUVANANTHAPURAM - 695122. R1-2 BY ADV. SRI.D.KISHORE THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 05.02.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

SATHISH NINAN, J.

===== O. P. (C) No.1554 of 2020
===== Dated this the 5th day of February, 2021

JUDGMENT

The suit is for money, based on a construction contract. The defendants-petitioners are aggrieved by the order remitting the Commissioner's Report.

2. The court, as per the impugned order, found

that the report as is presently available is insufficient to adjudicate the real dispute between the parties. The mere fact that the plaintiff did not seek for remission of the report does not mean that the report cannot be remitted when the court finds that further details are necessary. The defendant-petitioner contends that, the remission is for ascertaining facts beyond the scope of the agreement between the parties which is the subject matter of the suit.

3. The report already available on record shall

be maintained and the commissioner be directed to file further report. The relevancy and acceptability of the reports can be considered by O. P. (C) No.1554 of 2020 -: 2 :-

the court during the course of trial. The order

impugned warrants no interference. With the above observations, the original petition is disposed of. Sd/- SATHISH NINAN JUDGE kns/- //True Copy// P.S. to Judge APPENDIX PETITIONER'S/S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE PLAINT IN OS NO. 102/2013 FILED BEFORE THE SUB COURT, NEYYATTINKARA. EXHIBIT P2 TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONERS IN OS NO.102/2013. EXHIBIT P3 TRUE COPY OF THE COUNTER CLAIM FILED BY THE 1ST PETITIONER IN OS NO.102/2013. EXHIBIT P4 TRUE COPY OF THE WRITTEN STATEMENT TO COUNTER CLAIM IN OS NO.102/2013 FILED BY THE PLAINTIFF. EXHIBIT P5 TRUE COPY OF THE REPORT SUBMITTED BY THE ADVOCATE COMMISSIONER IN OS NO.102/2013. EXHIBIT P6 TRUE COPY OF THE OBJECTION FILED BY THE PLAINTIFF IN OS NO. 102/2013. EXHIBIT P7 TRUE COPY OF THE ORDER DATED 15.06.2020 IN OS NO.102/2013. -----

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