

Rasheeda Beevi vs Musthafa

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Court : Kerala

Decided On : Sep-30-2019

Judge : Honourable Mr.Justice a.M.Shaffique,Honourable Mr.Justice T.V.Anilkumar

Appeal No. : Mat.Appeal/458/2013

Appellant : Rasheeda Beevi

Respondent : Musthafa

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE A.M.SHAFIFIQUE & THE HONOURABLE MR.JUSTICE T.V.ANILKUMAR MONDAY, THE 30TH DAY OF SEPTEMBER 2019 / 8TH ASWINA, 1941 Mat.Appeal.No.458 OF 2013 AGAINST THE JUDGMENT IN OS 449/2004 DATED 31-05-2010 OF FAMILY COURT,KOLLAM APPELLANT/PLAINTIFF: RASHEEDA BEEVI, D/O SUBAIDA BEEVI PALOLIKIZHAKKATHIL VEEDU, ARINALLOOR WARD, THEVALAKKARA, KARUNAGAPPALLY TALUK, KOLLAM DISTRICT BY ADV. SRI.B.MOHANLAL RESPONDENTS/DEFENDANTS:

1 MUSTHAFA S/O PATHUMMA KUNJU, PLAVILA PURAYIDOM, FROM
PALOLIKIZHAKKATHIL VEEDU ARINALLOR WARD, ARINALLOOR
P.O., THEVALAKKARA, KARUNAGAPPALLY TALUK, KOLLAM
DISTRICT, PIN.690538. 2 PATHUMMAKUNJU
W/O. KHADERKUNJU, PALOLIKIZHAKKATHIL VEEDU, ARINALLOR
WARD, ARINALLOOR P.O., THEVALAKKARA KARUNAGAPPALLY
TALUK, KOLLAM DISTRICT, PIN.690538. R1 BY ADV.
SRI.A.JANI(KOLLAM) R1 BY ADV. SRI.G.SIVASANKAR R2 BY ADV.
SRI.K.SUBASH CHANDRA BOSE THIS MATRIMONIAL APPEAL
HAVING BEEN FINALLY HEARD ON

30.09.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 30th day of September 2019 SHAFFIQUE, J This is an application to condone the delay of 1041 days in filing the appeal. In the affidavit filed in support of the above application, it is stated that the judgment was delivered on 31.05.2010 and the Clerk of the counsel filed an application for obtaining a certified copy of the judgment. Later he left the service of the counsel without disclosing the details of the application. The new Clerk was not aware of the details. The counsel who was appearing in the case was later appointed as District Government Pleader and the case was entrusted

to his junior. During January, 2013, it came to the notice of the appellant that the respondents were taking steps to alienate the property and when she contacted her counsel it was revealed that the certified copy of the judgment was not taken. Thereafter she filed a fresh application for certified copy of the judgment on 15.01.2013 and it was obtained on 07.05.2013. After that, steps were taken to prefer the appeal and the appeal was filed on 11.7.2013 with a petition to condone the delay.

2. Even according to the petitioner, she was aware of the

disposal of the case. But what was she doing until January, 2013 is not known. Nothing has been stated in the affidavit as to whether she was enquiring about the case having known that the case filed by her was dismissed. When a considerably long period has elapsed and when there is no explanation for the delay during the relevant time, for obtaining a fresh certified copy, it can only mean that the petitioner was not keen in prosecuting the case and it was only later that she woke up from the slumber to file the appeal. We don't think that sufficient cause has been shown to condone the delay. The application to condone delay is dismissed. Consequently, the Mat. Appeal is also dismissed. A.M.SHAFFIQUE JUDGE T.V.ANILKUMAR True copy JUDGE kp P.A. To Judge.

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