IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

MONDAY, THE 11TH DAY OF MARCH 2024 / 21ST PHALGUNA, 1945

RSA NO. 342 OF 2023

AGAINST THE DECREE AND JUDGMENT DATED 26.08.2022 IN AS NO.20 OF 2022 OF ADDITIONAL DISTRICT COURT - IV, THALASSERY AROSE FROM THE ORDER DATED 11.03.2022 IN EA NO.208/2021 IN EP NO.117 OF 2020 IN O.S.NO.203/1985 ON THE FILES OF THE COURT OF THE PRINCIPAL SUBORDINATE JUDGE, THALASSERY

APPELLANT/APPELLANT IN A.S./CLAIM PETITIONER IN E.A:

SUNITHA.M.C
AGED 50 YEARS
D/O KARUNAKARAN NAMBIAR, AGED 50 , VINAYASREE, KEEZHUR AMSOM, DESOM, P.O.KEEZHUR, IRITTY TALUK, KANNUR DISTRICT, PIN - 670703

BY ADVS.
RAJESH V.NAIR
R.PARTHASARATHY

RESPONDENTS/RESPONDENTS IN A.S./RESPONDENTS IN E.A:

1. **KEZHUR EDATHIL KUNHIKRISHNAN VAZHUNNAVAR, (DIED) LRS IMPLEADED**
   AGED 87 YEARS
   S/O LATE KEEZHUR EDATHIL DEVAKIKUTTY AMMA, RESIDING AT RAJAPURAM, CHOVVA, KANNUR, PIN - 670006
2. **M.P.MANOHARAN**
   AGED 58 YEARS
   S/O KUNHIKANNAN NAMBIAR, RESIDING AT VINAYASREE, KEEZHUR AMSOM, DESOM, P.O.KEEZHUR IRITTY TALUK, KANNUR DISTRICT, PIN - 670703
3. **BHARATHI AMMA**
   AGED 70 YEARS
   D/O LATE KEEZHUR EDATHIL DEVAKI AMMA, RESIDING AT 'SREENILAYAM', KEEZHUR AMSOM, DESOM, P.O.KEEZHUR , KANNUR DISTRICT, PIN - 670703
4. **BHAVAM AMMA**
   AGED 68 YEARS
   D/O LATE KEEZHUR EDATHIL DEVAKI AMMA, RESIDING AT 'SREE NILAYAM', KEEZHUR AMSOM, DESOM, P.O.KEEZHUR IRITTY TALUK, KANNUR DISTRICT, PIN - 670703

5 **SREEMATHI AMMA**
AGED 67 YEARS
D/O LATE KEEZHUR EDATHIL DEVAKI AMMA,
RESIDING AT 'SREE NILAYAM', KEEZHUR AMSOM, DESOM,
P.O.KEEZHUR IRITTY TALUK, KANNUR DISTRICT, PIN - 670703

6 **RAJENDRAN VAZHUNNAVAR**
AGED 61 YEARS
S/O LATE KEEZHUR EDATHIL DEVAKI AMMA,
RESIDING AT 'SREE NILAYAM', KEEZHUR AMSOM, DESOM,
P.O.KEEZHUR IRITTY TALUK, KANNUR DISTRICT, PIN - 670703

7 **SUDHAKARAN VAZHUNNAVAR**
AGED 59 YEARS
S/O LATE KEEZHUR EDATHIL DEVAKI AMMA,
RESIDING AT 'SREE NILAYAM', KEEZHUR AMSOM, DESOM,
P.O.KEEZHUR IRITTY TALUK, KANNUR DISTRICT, PIN - 670703

8 **MANOJ VAZHUNNAVAR**
AGED 59 YEARS
S/O LATE KEEZHUR EDATHIL DEVAKI AMMA,
RESIDING AT 'SREE NILAYAM', KEEZHUR AMSOM, DESOM,
P.O.KEEZHUR IRITTY TALUK, KANNUR DISTRICT, PIN - 670703

9 **ADDL.R9**
N.K. PUSHPAVALLI ,
W/O THE LATE KUNHIKRISHNAN VAZHUNNAVAR,
AGED 73,'RAJAPURAM', MELE CHOVVA P.O., KANNUR,
PIN-670006 .

10 **ADDL.R10**
RAJESH KRISHNAN
AGED 50 YEARS
S/O. LATE KUNHIKRISHNAN VAZHUNNAVAR, "RAJAPURAM",
MELE CHOVVA P.O., KANNUR.,PIN-670006
NOW IN CONNECTION WITH EMPLOYMENT IN LONDON, U.K.,
THROUGH POA, MOTHER N.K.PUSHPAVALLY.

11 **ADDL.R11**
REKHA KRISHNAN
D/O.LATE KUNHIKRISHNAN VAZHUNNAVAR, AGED 47,
'RAJAPURAM', MELE CHOVVA P.O., KANNUR.,PIN-670006
NOW IN CONNECTION WITH EMPLOYMENT IN CALIFORNIA, U.S.,
THROUGH POA, MOTHER N.K.PUSHPAVALLY.
(LEGAL REPRESENTATIVES OF THE DECEASED 1ST RESPONDENT ARE IMPLEADED AS ADDL.RESPONDENTS 9 TO 11 AS PER ORDER DATED 19.10.2023 IN IA.1/2023)

R9 TO R11 BY ADVS.
M.R.MINI
ASHWIN SATHYANATH

THIS REGULAR SECOND APPEAL HAVING COME UP FOR ORDERS ON 11.03.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 11th day of March, 2024

This regular second appeal has been filed under order XLII Rule 1 read with Section 100 of the Code of Civil Procedure challenging the decree and judgment in A.S. No.20 of 2022 dated 26.08.2022 on the files of the Court of the Additional District Judge-IV, Thalassery arose from the order in E.A. No.208/2021 in E.P. No.117/2020 in O.S. No.203 of 1985 dated 11.03.2022 on the files of the Court of the Principal Subordinate Judge, Thalassery.

2. No representation for appellant.

3. The legal heirs of the deceased 1st respondent filed I.A. No.1/2024 seeking early hearing of this matter, since the execution of the decree is being stalled because of the pendency of this appeal, which arose from the suit of the year 1985.

4. Since the learned counsel for the appellant is not intended to proceed with the matter, where the otherside repeatedly wants emergent hearing, this regular second appeal can only be dismissed.

Accordingly, this second appeal stands dismissed for non prosecution.

5. All interlocutory applications pending in this regular second appeal stand dismissed, with liberty to the Execution Court to proceed with the execution of the decree expeditiously.

Registry is directed to forward this judgment to the trial court for information and compliance.

Sd/-

A. BADHARUDEEN
JUDGE

SK