

Baby Mathew Vs Abraham Mathew

Court: High Court Of Kerala

Date of Decision: June 30, 2022

Acts Referred: Constitution of India, 1950 " Article 227

Hon'ble Judges: A. Badharudeen, J

Bench: Single Bench

Advocate: Jose Tom C. Kandathil, Mathai K.C.

Final Decision: Allowed

Judgement

A. Badharudeen, J

1. This is an Original Petition filed under Article 227 of the Constitution of India. The petitioner, who is the sole defendant in O.S.No.42/2019 on the

file of Munsiff Court, Ettumanoor, impugns orders in I.A.No.2/2020 (Annexure-A1), I.A.No.1/2020 (Annexure-A2) and I.A.No.3/2020 (Annexure-

A3) dated 15.06.2022 in the above suit.

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

3. Though Annexures A1 to A3 orders were challenged in this revision, it is argued by the learned counsel for the revision petitioner that if Annexure-

A1 order is set aside with liberty to the petitioner to file written statement, the petitioner is satisfied and the challenge against Annexures A2 and A3

may be permitted to be withdrawn.

4. In view of this submission, notice to other side stands dispensed with. As per Annexure-A1, the petitioner sought time to file written statement in

the above suit, after filing petition to reject the plaint on various reasons.

5. In this case, Annexures A2 and A3 orders, not under challenge in view of the submission made by the learned counsel for the revision petitioner

and the said challenge stands withdrawn. Therefore, in the interest of justice and to provide the petitioner an opportunity to defend the case, by filing

written statement, it is necessary to set aside Annexure-A1 order, with liberty to the petitioner to file written statement, within a period of 45 days

from today.

Therefore, this Revision Petition is allowed in part. Annexure-A1 order is set aside and the petitioner is given liberty to file written statement, within 45

days from today. On filing the same, the court below shall accept the same and proceed with trial of the suit in accordance with law.

It is ordered further that if the written statement is not filed within 45 days as directed, the court below can proceed under law.