

ITEM NO.53

COURT NO.7

SECTION XIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No. 16692/2010

(Arising out of impugned final judgment and order dated 07/04/2010 in CRP No. 3319/2001,07/04/2010 in CRP No. 3319/2001 passed by the High Court Of Kerala At Ernakulam)

SALOMI VIJAYAMMA

Petitioner(s)

VERSUS

CHRISTUDAS & ORS.

Respondent(s)

(With application for recalling the court's order and interim relief and office report)

Date : 06/04/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Petitioner(s) Dr. K.P. Kylasnath Pillai, Sr. Adv.
Ms. V.S. Lakshmi, Adv.
Mr. A. Venayagam Balan, A.O.R.

For Respondent(s) Mr. C. N. Sree Kumar, A.O.R.
Mr. Amit Sharma, Adv.

UPON hearing counsel the Court made the following
O R D E R

Having noted the contents of the application which discloses that a person who was very much alive namely, the third respondent was reported to be dead by the petitioner and based on the said statement, the appeal as against third respondent

which was stated to be abated was set aside by order dated 2nd September, 2014 in I.A. No. 5 of 2014 by permitting the petitioner to implead the legal heirs of the said third respondent. Consequent upon setting aside of the said order, the cause title was also amended and respondent Nos. 3(i), (ii) and (iii) were added as legal representatives of the so-called deceased respondent No. 3. The present application namely, I.A. No. 8 of 2014 discloses that the said third respondent is very much alive and, therefore, the order dated 2nd September, 2014 passed in I.A. Nos. 5, 6 and 7 should be recalled.

Dr. K.P. Kylasnath Pillai, learned senior counsel for the petitioner frankly submitted that since fifth respondent was also namesake of the third respondent, the mistake occurred in identifying the person who was dead and that the fifth respondent was the person who was no more. The learned senior counsel submitted that the petitioner mistook the said fact which resulted in the wrong statement made before this Court. Whatever may be the explanation which the

petitioner seeks to offer, inasmuch as, at the instance of the petitioner in I.A. Nos. 5-7 of 2014 were moved and while condoning the delay in setting aside abatement, the abatement was set aside and legal representatives of the third respondents were also allowed to be impleaded as party respondents, such a gross mis-statement of facts by stating a person who is very much alive as dead cannot be condoned for mere asking.

We are, therefore, constrained to express our deep anguish in the casual manner in which the petitioner filed the above applications, IA Nos. 5, 6 and 7 of 2014 without making proper verification of the real status of the third respondent as to whether he was alive or not. We, therefore, we feel that even while allowing this application for recalling our order dated 2nd September, 2014, passed in I.A. Nos. 5-7 of 2014 and restoring the status of the third respondent as party respondent to continue to remain in the Special Leave Petition and cancelling the impleading of respondent Nos. 3(i),(ii) and (iii), the petitioner is directed to pay costs of Rs.5,000/- to the applicant within

four weeks from today. Cause title be amended accordingly.

Post for final disposal in the month of July, 2015.

[KALYANI GUPTA]
COURT MASTER

[SHARDA KAPOOR]
COURT MASTER