

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

OP(C).No. 908 of 2015 (O)

OS.NO.105/2011 OF PRINCIPAL SUB COURT, NORTH PARUR

PETITIONER(S):

LISSY ANTONY,
W/O.ANTONY, CHIRAYATH HOUSE,
MUNAMBAM MURI,
KUZHUPILLY VILLAGE, KOCHI TALUK.

BY ADVS.SRI.K.NARAYANAN (PARUR)
SRI.DEEPAK JOY.K.

RESPONDENT(S):

K.A.GEORGE,
ATTESSERIL KALHUNGAL HOUSE,
VARAYANNUR P.O., PULLATT,
PATHANAMTHITTA-689548.

BY ADV. SRI.BABU PAUL

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 29-06-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

OP(C).No. 908 of 2015 (O)

APPENDIX

PETITIONERS' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE IMPUGNED ORDER DATED 5/2/15 IN IA.874/2014 IN
OS.NO.105/2011 ON THE FILE OF THE COURT OF PRINCIPAL SUB
JUDGE, NORTH PAUR.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B. KEMAL PASHA, J.

.....
O.P.(C) No.908 of 2015
.....

Dated this the 29th day of June, 2015

J U D G M E N T

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After the examination of the plaintiff in the suit before the court below, the defendant has filed I.A.874/2014 purportedly one under Order VIII Rule 1 and Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 along with an additional written statement. The court below has dismissed the IA through Ext.P1 order.

2. Heard learned counsel for the petitioner and learned counsel for the respondent.

3. According to the learned counsel for the petitioner, the fact that PW1 is a Canadian citizen has been brought out through the examination of PW1 and, therefore, it necessitated the filing of an additional written statement. Further, there is huge escalation of the price of the property in question after the contract of sale in the year 2003. The

pleadings to that effect were not taken up in the written statement and, therefore, the said pleadings have also to be taken up. The learned counsel for the respondent has pointed out that O.S.No.550/2010 was pending between the very same parties in which the very same lawyers also represented. In that suit, it was specifically brought out that PW1 herein is a Canadian citizen. Therefore, it is not a new fact. Whatever it is, the IA under Order VIII Rule 1 and Order VI Rule 17 of the Code of Civil Procedure, 1908 is not at all maintainable. The provision enabling subsequent pleadings is the one under Order VIII Rule 9 CPC. In this particular case, the same is also not applicable. When the court is in need of an additional written statement from a party, the court can call upon the person to file an additional written statement. Further, as per the said provision, except in the case of a counter claim or set off, any additional written statement cannot be filed. It seems that instead of attempting for an amendment of the written statement, the

present attempt is to file an additional written statement which cannot be swallowed in legal parlance. Even an amendment is not possible at this stage, as it is hit by the proviso to Order VI Rule 17 CPC. There is absolutely nothing to interfere with Ext.P1 order. O.P.(Civil) is devoid of merits and is only to be dismissed, and I do so.

In the result, this O.P.(Civil) is dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/29/06

// True Copy //

PA to Judge