



RFA NO. 173 OF 2015

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2025:KER:31071

IN THE HIGH COURT OF KERALA AT-ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 9TH DAY OF APRIL 2025 / 19TH CHAITHRA, 1947

RFA NO. 173 OF 2015

**AGAINST THE JUDGMENT AND DECREE DATED 31.10.2014 IN OS
NO.358 OF 2012 OF I ADDITIONAL SUBORDINATE JUDGES COURT,ERNAKULAM**

APPELLANT/DEFENDANT:

**K.K.JOSE
AGED 75 YEARS
SON OF KURIAPPAN, RESIDING AT KARALATHUKARAN HOUSE
ESWARA IYER ROAD, ERNAKULAM, KOCHI-682 035**

**BY ADVS.
SRI.B.ASHOK SHENOY
SRI.K.V.GEORGE
SRI.P.S.GIREESH
SMT.C.G.PREETHA
SRI.P.N.RAJAGOPALAN NAIR**

RESPONDENT/PLAINTIFF:

**K.P.DAMODARAN NAIR
AGED 67 YEARS
S/O.A.K.NAIR, 35/1872, SOUTH JANATHA ROAD,
PALARIVATTOM, KOCHI-682 025.**

BY ADV SRI.P.K.BABU

**THIS REGULAR FIRST APPEAL HAVING COME UP FOR ADMISSION ON
09.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



A. BADHARUDEEN, J

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R.F.A. No. 173 of 2015

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Dated 09th day of April, 2025

JUDGMENT

This regular first appeal has been filed under Section 96 read with Order XLI Rule 1 of the Code of Civil Procedure, 1908, challenging the decree and judgment dated 31.10.2014 in O.S. No. 358 of 2012 on the files of the Additional Judge's Court -I, Ernakulam.

2. In this matter, the parties referred to mediation. The parties, viz, appellant and respondent have jointly signed mediation agreement submitted by the mediator, thereby matter has been settled and the memorandum of agreement under Section 89 of the Code of Civil Procedure r/w Rules 24 & 25 of the Civil



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Procedure (Alternative Dispute Resolution) Rules 2008 dated 07.04.2025, has been produced. The same appears to be legal and acceptable.

3. In view of the settlement, the decree and judgment of the trial court stand reversed, and the appeal is allowed in terms of the settlement. The memorandum of settlement shall form part of the first appellate decree.

4. All interlocutory applications pending in this regular first appeal stand dismissed.

Registry is directed to refund the admissible court fee paid in this appeal to the appellant, as per law.

Sd/-

A. BADHARUDEEN

JUDGE

RMV



9/33
RJ

ERNAKULAM MEDIATION CENTRE (HIGH COURT HALL)

(2nd floor, above SBI, High Court Building, Ernakulam, Kochi-31. (Ph:0484-2562238)

EMC/Reg No. 474/25

Dated 7/4/25

From

The Nodal Officer,
High Court Mediation Centre.

To

The Registrar (Judicial)
High Court of Kerala, Ernakulam.

Sir,

Sub : Mediation of case referred by the Hon'ble High Court of Kerala -
reg.

Ref : Referral Order in RFA No. 173/2015
dated 3/3/25 of the Honorable High Court of Kerala

sa
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RFA

I am to forward herewith Report of the Mediator in the matter along
with the enclosures for information and necessary action.

Yours Faithfully,

MJ Long
Nodal Officer,
Ernakulam Mediation Centre

- Encl:-
1. Report of the Mediator, Settlement Agreement
 2. Copy of the referral order dated 3/3/25 of the High Court of Kerala.
 3. Copy of the Petition

**BEFORE THE HONOURABLE HIGH COURT OF KERALA
AT ERNAKULAM**

R.F.A. NO. 173 OF 2015 [H]

K.K.Jose : Appellant

K.P. Damodaran Nair : Respondent

REPORT SUBMITTED BY THE MEDIATOR

Mediated, matter is settled.

Terms and conditions are attached herewith.

Dated this the 7th day of April 2025. .



**Adv. A.R George
Mediator
High Court Mediation Centre**

BEFORE THE HONOURABLE HIGH COURT OF KERALA
AT ERNAKULAM

R.F.A. NO. 173 OF 2015 [H]

K.K.Jose : Appellant

K.P.Damodaran Nair : Respondent

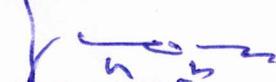
MEDIATED SETTLEMENT AGREEMENT

(Under Section 89 of the Code of Civil Procedure read with Rules 24 and 25 of the Kerala Civil Procedure (Mediation) Rules, 2008)

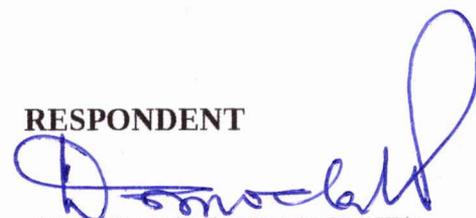
The dispute covered in the above case was referred for Court annexed mediation and was mediated by Mr. A.R. George, Advocate and accredited trained mediator and parties have agreed to settle their disputes as under:

1. The Appellant/Defendant and Respondent/Plaintiff having agreed to settle once and for all, the claims put forth by the latter in the subject suit - O.S. No.358 of 2012 on the files of First Additional Subordinate Judges Court, Ernakulam from which the above appeal arises, against the appellant/defendant, on the latter receiving a sum of Rs.16,00,000/- (Rupees Sixteen Lakhs only) in full and final settlement as also satisfaction of all the claims of the respondent/plaintiff as against appellant/defendant in the subject suit and in the above appeal;

APPELLANT


(K.K. JOSE)

RESPONDENT


(K.P. DAMODARAN NAIR)



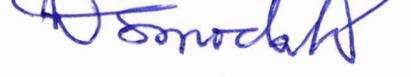
2. An amount of Rs.16,00,000/- (Rupees Sixteen Lakhs only) deposited with the Punjab National Bank, Vennala Branch, by the appellant/defendant was attached as security in the subject suit - O.S. No.358 of 2012 by the First Additional Subordinate Judges Court, Ernakulam and out of the said amount, an amount of Rs.10,00,000/- has already been released to the respondent/plaintiff pursuant to the order dated 24.11.2015 of this Hon'ble Court in the above Appeal. Parties hereby agrees that the said amount of Rs.10,00,000/- so released will be adjusted towards the aforementioned amount of Rs.16,00,000/- payable in terms of Clause 1 hereinabove; and the balance amount of Rs.6,00,000/- (Rupees Six Lakhs only) can be released to the respondent/plaintiff from and out of the said deposit with the Punjab National Bank, Vennala Branch, which is under attachment in the subject suit - O.S. No.358 of 2012 by the First Additional Subordinate Judges Court, Ernakulam;

3. In view of the above settlement, the respondent/plaintiff has no objection in lifting the attachment effected on Rs.16,00,000/- deposited by the appellant/defendant with the Punjab National Bank, Vennala Branch; which was attached in the subject suit - O.S. No.358 of 2012 by the First Additional Subordinate Judges Court, Ernakulam and the appellant/defendant will be entitled to withdraw and utilise the balance amount available in the said account since release of Rs.6,00,000/- in terms with Clause 2 above; with the respondent/plaintiff have no claim whatsoever on the balance amount thereof;

APPELLANT


(K.K. JOSE)

RESPONDENT


(K.P. DAMODARAN NAIR)



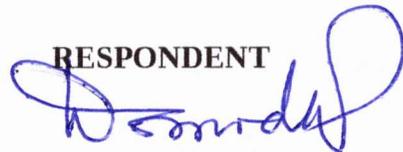
4. Both parties request this Hon'ble Court to issue an order lifting attachment of Rs.16,00,000/- deposited by the appellant/defendant with the Punjab National Bank, Vennala Branch and direct the Branch Manager, Punjab National Bank, Vennala Branch to release Rs.6,00,000/- to the respondent/plaintiff and the balance amount to the appellant/defendant and to direct the Registry of this Hon'ble Court to communicate the order thereof to the Branch Manager, Punjab National Bank, Vennala Branch;

5. It is to be clarified that the respondent K.P Damodaran Nair had withdrawn Rs.10,00,000/- (Rupees Ten lakhs only) from the Bank Account of the appellant maintained with Punjab National Bank, Vennala Branch on the basis of an order of the Hon'ble High Court, in IA No.2467/2015 in RFA.No.173/2015 by furnishing a Bank Guarantee of Rs.10,00,000/- (Rupees Ten lakhs only) with Indian Bank, Ravipuram Branch, M.G Road by the respondents before the Sub Court, Ernakulam. The above said Bank Guarantee of Rs.10,00,000/- (Rupees Ten lakhs only) shall be released in favour of the respondent and for that purpose, respondent shall file an application before the Sub Court, Ernakulam, the appellant should submit his non-objection statement before the Court.

APPELLANT


(K.K. JOSE)

RESPONDENT


(K.P. DAMODARAN NAIR)



6. In view of the aforesaid Agreement arrived at through mediation, the appellant may be allowed the refund of entire court fee .

7. Both parties agree to this Mediation Settlement Agreement and terms herein being recorded as also judgment/decree being passed in terms of it.

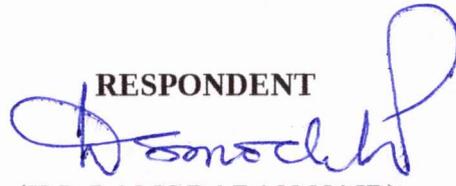
In view of the above settlement, it is respectfully prayed that Judgment/Decree may be passed in terms of this settlement and aforesaid terms and conditions agreed to between the parties, taking it on record.

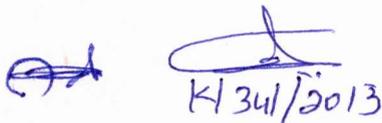
Dated this the 7th day of April 2025.

APPELLANT

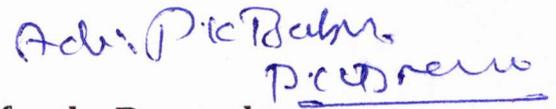

(K.K. JOSE)

RESPONDENT


(K.P. DAMODARAN NAIR)


K/34/2013

Counsel for the Appellant


K/1167/87

Counsel for the Respondent

This settlement agreement is authenticated by me.

Adv. A.R.George (Mediator)



