



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR. JUSTICE P. KRISHNA KUMAR

MONDAY, THE 27TH DAY OF OCTOBER 2025 / 5TH KARTHIKA, 1947

RFA NO. 79 OF 2013

AGAINST THE JUDGMENT DATED 23.03.2012 IN OS NO.498 OF 2006 OF

I ADDITIONAL SUB COURT, THIRUVANANTHAPURAM

APPELLANT/PLAINTIFF:

V.CHANDRAN

AGED 55 YEARS

S/O.VASUDEVAN, VADAKKUMKARA VEEDU, UDAYAKONAM, MADIRA
MURI, MANGODE VILLAGE, KOTTARAKKARA TALUK,
KOLLAM DISTRICT.

BY ADVS.

SHRI.M.R.ANANDAKUTTAN

SRI.MAHESH ANANDAKUTTAN

SRI.T.SAPROO

SMT.M.A.ZOHRA

RESPONDENTS/DEFENDANTS 1 & 3:

- 1 ALIAMMA GEORGE
W/O.K.V.GEORGE, KARIMPIL BUILDING, KOTTAYKKAKAM,
VITHURA P.O., THIRUVANANTHAPURAM-695551.
- 2 GEORGE VARGHESE
S/O.K.V.GEORGE, KARIMPIL BUILDING, KOTTAYKKAKAM,
VITHURA P.O., THIRUVANANTHAPURAM-695551.
- 3 GEORGE KURIAN
S/O.K.V.GEORGE, KARIMPIL BUILDING, KOTTAYKKAKAM,
VITHURA P.O., THIRUVANANTHAPURAM-695551.



RFA NO. 79 OF 2013

-2-

BY ADVS.
SMT.M.C.SINY
SRI.R.ANAS MUHAMMED SHAMNAD
SHRI.MOHAN PULIKKAL
SHRI.T.S.RAJASENAN
SHRI.R.SUDHEER

THIS REGULAR FIRST APPEAL HAVING COME UP FOR HEARING ON
27.10.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2025:KER:79909

C. R.

SATHISH NINAN &
P. KRISHNA KUMAR, JJ.

= = = = =

R.F.A. No.79 of 2013

= = = = =

Dated this the 27th day of October, 2025

J U D G M E N T

Sathish Ninan, J.

The suit for damages for breach of a contract was dismissed by the trial court. The plaintiff is in appeal.

2. The plaintiff is a timber merchant. On 06.08.1998, he entered into Ext.A1 agreement with the defendants to cut and remove trees standing in the plaint schedule property belonging to the defendants. The total consideration fixed was ₹ 25 lakhs. It was a term of Ext.A1 that the defendants were to obtain passes from the Forest Department to enable the removal of the trees. The claim of the labourers of the estate were also to be settled by the defendants. The plaintiff constructed a motorable road through the property for a length of 25 kilometres and expended huge amounts for the same. This was in addition to the amount expended for construction of stacking shed, arranging labourers etc. The period of the agreement was for one year from 01.09.1998. According to the plaintiff, since the defendant



-: 2 :-

failed to procure the necessary passes, the agreement was further extended till 03.04.2001. The plaintiff alleges that on the failure of the defendants to obtain passes, the plaintiff was unable to remove the trees in its entirety. The plaintiff has thus suffered damages under various heads. Thus suit was filed for realisation of the same.

3. The defendants, while admitting Ext.A1 agreement, contended that Ext.A1 agreement had been performed in its entirety and that on such completion, on 01.10.2000, yet another agreement was entered into between the parties as Ext.B4 for removal of the trees in yet another property belonging to the defendants. They alleged suppression of such fact by the plaintiff. They prayed for dismissal of the suit.

4. The trial court found that Ext.A1 agreement has been performed. It was also found that the suit is barred by limitation.

5. We have heard Smt.Hemalatha, the learned counsel on behalf of the appellant and Sri. R. Sudhir, the learned counsel for the respondents.



-: 3 :-

6. The points that arise for determination are :-

(i) *Is the plaint claim barred by limitation?*

(ii) *Has there been breach of Ext.A1 agreement by the defendants ?*

7. Ext.A1 agreement is dated 06.08.1998. Under Ext.A1, the period fixed for performance was one year from 01.09.1998. The said period expired on 01.09.1999. The plaintiff claims that on 03.10.2000 the agreement was extended for a further period of six months ie. up to 03.04.2001. Alleging breach on the part of the defendants, the suit has been filed. The suit is filed only on 18.01.2005.

8. The learned counsel for the appellant-plaintiff would contend that, the defendants failed to obtain passes from the Forest Department, that the breach is a continuous one, and hence the suit cannot be said to be time barred. We are unable to agree with the contention. Article 55 of the Limitation Act, 1963 reads thus:

Art.	Description of suit	Period of limitation	Time from which period begins to run
55	For compensation for the breach of any contract, express or implied not herein specifically provided for.	Three years	When the contract is broken or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs or (where the breach is continuing) when it ceases.



-: 4 :-

Article 55 contemplates three situations; one, when the contract is breached; second, when there are successive breaches; and the third, when the breach is a continuing one. When the breach is a continuing one, limitation begins to run from the date on which the breach ceases.

9. Section 22 of the Limitation Act deals with “continuing breaches”. It reads thus,

“S.22. Continuing breaches and torts-

In the case of a continuing breach of contract or in the case of a continuing tort, a fresh period of limitation begins to run at every moment of the time during which the breach or the tort, as the case may be, continues.”

In the case of continuing breach, every moment the breach continues, a fresh period of limitation commences. Article 55 provides that in the case of breach of a contract, when the breach is continuous, limitation begins to run from the date of cessation of the breach. When does the breach cease in the given case, is dealt with in the succeeding paragraph.

10. When the term of Ext.A1 agreement obliging the defendants to obtain passes from the Forest Department is breached by them, there occurs a breach of the contract. That

R.F.A. No.79 of 2013



2025:KER:79909

-: 5 :-

breach continues during the period fixed in the contract. On expiry of the period of the contract, the breach ceases. The breach was a continuing one, but, during the currency of the contract. The breach cannot be said to continue thereafter since, the period fixed by the parties have expired. A suit could be maintained within three years from the date of expiry, claiming the total damages consequent on the breach committed by the defendants.

11. As was noticed, Ext.A1 agreement specified the period for performance as one year which expired in the year 1999. The plaintiff claims that the agreement has been extended till 03.04.2001. The alleged extension is disputed by the defendants. Even taking it to be that there had been such an extension, it was only for a specified period ie. up to 03.04.2001. There would have been continuous breaches within the period of the agreement. For breaches within the period stipulated, the plaintiff could have waited till the expiry of the period. But, once the period of the agreement expired, the time started to run. The plaintiff was obliged to institute the suit within three years therefrom. Having failed to do so, the present suit is barred by limitation.

R.F.A. No.79 of 2013



2025:KER:79909

-: 6 :-

The trial court was right in having held so.

12. Having found that the suit is barred by limitation, the other questions does not arise for consideration.

Resultantly, the appeal fails and is dismissed.

Sd/-
SATHISH NINAN
JUDGE

Sd/-
P. KRISHNA KUMAR
JUDGE

kns/-

//True Copy//

P.S. To Judge