IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY,THE 24TH DAY OF DECEMBER 2013/3RD POUSHA, 1935

OP(C).No. 4714 of 2013 (O)

AGAINST THE ORDER IN EP 293/2010 of D.C. & SESSIONS COURT, KOLLAM
DATED 20-07-2011

PETITIONERS : -
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1. RENJU V.R., AGED 30 YEARS,
   W/O. ANIL, ASHOK BHAVAN,
   KARAMCODE P.O., KOLLAM.

2. RETNAKARAN,
   ASHOK BHAVAN,
   KARAMCODE P.O., KOLLAM.

3. VALSALA,
   W/O. RETNAKARAN,
   ASHOK BHAVAN,
   KARAMCODE P.O., KOLLAM.

BY ADV. SMT.G.VIDYA

RESPONDENT : -

MUTHOOT FINANCE LTD.,
KOLLAM,
REPRESENTED BY POWER OF ATTORNEY HOLDER,
SUNDERAM PILLAI,
SRUTHI, VELLIMON,
KERALAPURAM,
KOLLAM, PIN-691511.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 24-12-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 4714 of 2013 (O)

APPENDIX

PETITIONERS' EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF THE EXECUTION PETITION NO. 293/10, DATED 20-07-11.

EXHIBIT P2 : TRUE COPY OF THE REPORT AND MAHAZAR SUBMITTED BY THE ADVOCATE COMMISSION IN E.P.NO. 293/10 DATED 28-09-13.

RESPONDENT'S' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

K.Vinod Chandran, J.

O.P. (C) No. 4714 of 2013

Dated this the 24th day of December, 2013

<u>JUDGMENT</u>

The first petitioner is the borrower and the petitioners two and three are the sureties of a vehicle loan availed of by the first petitioner. Admittedly, the vehicle loan was availed of by taking finance from the respondent. It is the admitted case of the first petitioner that she has sold the vehicle to another person. Obviously, the sale has been done without the approval of the respondent who had granted the facility for purchasing the vehicle. An execution petition has been filed by the financier, as early as on 2010 and even now the petitioner contends that the respondent bank has to proceed against the person who is in possession of the vehicle. The possession of the vehicle as contended by the first petitioner has been handed over to a third party without the junction of the financier/respondent and hence the same can only be considered to be an illegal possession. In the circumstance, if the petitioner deposits 50 % of the defaulted amount, the execution proceedings shall be kept in abeyance for another six months within which the petitioner could clear the entire arrears in the loan account. If the petitioner does not make the initial deposit of 50% within 01.01.2014, the sale can be proceeded with.

The Original petition is disposed of.

K.Vinod Chandran,
Judge

DMR/-