

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

Con.Case(C).No. 49 of 2014 (S)

Mat.Appeal 624/2007 of THIS HONOURABLE COURT

PETITIONER/PETITIONER :

**SAJANI @ AHINA H. AGED 18 YEARS,
D/O.NUSIBA BEEVI, VENGAVILA VEEDU, NELLIMOODU,
KULATHUPUZHA, KOLLAM DISTRICT.**

BY ADV. SRI.JOHNSON GOMEZ

RESPONDENT/RESPONDENT :

**SAINUDEEN, AGED 53 YEARS,
S/O.MOHAMMED HANEEFA, ROADUVILA VEEDU, KAITHODU P.O.
NILAMEL VILLAGE, KOTTARAKKARA TALUK, KOLLAM DISTRICT.**

**R1 BY ADV. SMT.MEREENA JOSEPH
BY SRI.M.R.RAJESH**

**THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD
ON 08-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S ANNEXURES :

- ANNEXURE A1:** COPY OF THE JUDGMENT DT 30TH OCTOBER 2008 IN MAT APPEAL NO. 624/2017 PASSED BY THIS HON'BLE COURT.
- ANNEXURE A2:** COPY OF THE ATTACHMENT REPORT FILED BY THE AMEEN BEFORE THE FAMILY COURT KOLLAM IN IA NO. 1238 OF 1995 IN OA NO. 133 OF 1995.
- ANNEXURE A3:** COPY OF THE ATTACHMENT ORDER AND THE SCHEDULE OF THE PROPERTY IN IA NO. 1238 OF 1995 IN OA NO. 133 OF 1995 ON THE FILE OF THE FAMILY COURT KOLLAM.
- ANNEXURE A4:** COPY OF THE JUDGMENT DT 24TH JUNE 2013 IN OP(FC) NO. 2008 OF 2013 PASSED BY THIS HON'BLE COURT.
- ANNEXURE A5:** COPY OF THE SALE DEED NO. 3486 OF 2012 EXECUTED BY THE RESPONDENT ON 17-09-2012.

RESPONDENT'S ANNEXURES : NIL.

//TREU COPY//

P.S. TO JUDGE

bp

ASHOK BHUSHAN, CJ

&

A.M. SHAFFIQUE, J.

=====

Cont.Case (C) N0.49 of 2014

=====

Dated this, the 8th day of June, 2015

J U D G M E N T

Ashok Bhushan, CJ

This contempt petition has been filed alleging non compliance of the directions in the judgment of this Court dated 30th of October, 2008 in Mat.Appeal No.624/2007. This Court in para 7 of the judgment passed the following order.

“7. We find that the court below has already passed an order of attachment over 60 cents of land belonging to the appellant as per IA No.1238/1995. That attachment will continue. In case the appellant is not complying with his commitment to set apart 30 cents of land in favour of the minor child within a period of 30 days from today, failing which the respondent is entitled to get the sale deed executed through court and this will be an executable order. In case the 30 cents of land is assigned in favour of the minor child either by the appellant or through court, as the case may be, there will not be any further liability on the part of the appellant to pay maintenance to the minor child.”

-:2:-

2. Learned counsel for the respondent submits that this contempt is not maintainable as neither any contempt has been committed nor any contempt is made out from the application. Learned counsel for the petitioner submits that the appellant/respondent did not set apart 30 cents of land in favour of the minor child within 30 days as contemplated in the order. He submits that subsequently the applicant proceeded by filing an execution application where an order has been passed for court sale, which is still being objected by the appellant/respondent in different proceedings.

3. We have considered the submission and perused the record.

4. Para 7 of the judgment itself contemplates that in case within 30 days, the appellant does not set apart 30 cents of land in favour of the minor child, respondent, the petitioner herein, is entitled to get the sale executed through court. The respondent had adopted the machinery of court sale in the event of not setting apart of land by the appellant. We find that no contempt

COC No.49/14

-:3:-

has arisen on the part of the respondent on the basis of which we can proceed in this contempt application.

Contempt petition is closed.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp

//True Copy//

PS to Judge