

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

Crl.MC.No. 570 of 2015 ()

MC 32/2013 of ADDL.C.J.M.(E&O),ERNAKULAM

PETITIONER/1ST RESPONDENT:

MANAF, AGED 43 YEARS, S/O, .ABDUL KHADER,
PUZHANAKARAYILLATH
8, CHALINGAD, KAIPAMANGALAM
THRISSUR DISTRICT - 680 681. WRONGLY SHOWN
IN MC 32/2013 AS SREENARAYANAPURAM VILLAGE
VENBALLOOE DESOM, PATHAZHAKKAD POST
KODUNGALLOOR TALUK, THRISSUR DISTRICT - 680 668.

BY ADVS.SRI.BLAZE K.JOSE
SRI.RAHUL SASI
SRI.SAJIN JOSEPH

RESPONDENTS/PETITIONER/RESPONDENTS 2 TO 4:

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1. SHAIJA, AGED 37 YEARS,
D/O.IBRAHIM, AZHIKKAKATH HOUSE, KAIRALI STREET
ASHOKA ROAD EAST, ERNAKULAM, KOCHI - 682 017.
 2. ABDUL KHADER
RESIDING AT PUZHANAKARAYILLATH, 8, CHALINGAD
KAIPAMANGALAM, THRISSUR DISTRICT - 680 681.
 3. RUKIYA,
W/O.ABDUL KHADER, RESIDING AT PUZHANAKARAYILLATH, 8
CHALINGAD, KAIPAMANGALAM, THRISSUR DISTRICT - 680 681.
 4. MUMTAZ,
D/O.ABDUL KHADER, RESIDING AT PUZHANAKARAYILLATH, 8
CHALINGAD, KAIPAMANGALAM, THRISSUR DISTRICT - 680 681.
 - 5.STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.M.P.MOHAMMED ASLAM
R BY PUBLIC PROSECUTOR, SHRI.JIBU P THOMAS

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
23-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE 1: A TRUE COPY OF THE JUDGMENT IN WP (CRL) NO. 466 04 2013 DATED 21/10/2013.

ANNEXURE 2: A TRUE COPY OF THE MEMORANDUM OF AGREEMENT UNDER SECTION 89 OF THE CPC READ WITH RULE 24 OF THE CIVIL PROCEDURE (ALTERNATIVE DISPUTE RESOLUTION) RULE 2008.

ANNEXURE 3: A TRUE COPY OF THE ABSENT APPLICATION FILED BY THE COUNSEL FOR THE RESPONDENT 15/12/2014.

ANNEXURE 4: A TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY DR.MOHAMMED KHIZER HUSSAIN, CONSULTANT SURGEON.

ANNEXURE 5: A TRUE COPY OF DD DRAWN IN FAVOUR OF THE 1ST RESPONDENT/PETITIONER FROM AXIS BANK KOCHI DATED 05/12/2014.

ANNEXURE 6: A TRUE COPY OF MEMO OF PAYMENT DATED 15/12/2014.

ANNEXURE 7: CERTIFIED COPY OF THE ORDER IN MC 32/2013 DATED 15/12/2014 OF THE ACJM (EO) ERNAKULAM.

ANNEXURE 8: TRUE COPY OF THE PROCEEDINGS IN MC 32/2013 OF THE ACJM (EO) ERNAKULAM.

ANNEXURE 9: A TRUE COPY OF THE DEMAND NOTICE SERVED ON 20/01/2015 DT.13/01/2015 UNDER SECTION 7 OF THE REVENUE RECOVERY ACT.

ANNEXURE 10: A TRUE COPY OF THE DEMAND NOTICE SERVED ON 20/01/2015 DT.13/01/2015 UNDER SECTION 34 OF THE REVENUE RECOVERY ACT.

RESPONDENTS' EXHIBITS : NIL

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// TRUE COPY //

PA to Judge

B.KEMAL PASHA, J.

Crl.M.C. No.570 of 2015

Dated this the 23rd day of February 2015

ORDER

The matter was settled in mediation and Annexure - 2 Mediation Settlement agreement was entered into, between the parties. Even though the petitioner was bound to pay an amount of Rs.35,00,000/-, covered by the said Mediation Settlement agreement, within a period of 3 months from the date of the said agreement, the amount was not paid by the petitioner, by stating that the Mediation Settlement agreement was not accepted by the court below, and an award to that effect was not passed. The court below has issued a distress warrant. The petitioner has approached this Court, seeking to set aside Annexure-7 order in M.C. No.32/2013.

2. When the matter came up before this Court, as this Court felt that the said plea was purely technical, this Court accepted the Mediation Settlement agreement and directed the petitioner to pay the amount. It seems that the petitioner has paid the amount. The learned counsel for the first respondent has also admitted that the amount has been paid. When the amount has been paid, the matter has become infructuous. Order dated 3.2.2015 passed by this court, can be treated as the award in the matter, and the petitioner can obtain a copy of the same. A copy of the Mediation Settlement agreement entered into between the parties, shall be appended with the said order.

With the said observations, this Crl.M.C. is dismissed.

Sd/-
B.KEMAL PASHA,
JUDGE

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// TRUE COPY //

PA to Judge