

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

CRP.No.38 of 2015

(Against the order dtd.20.12.2014 in E.P.110/12 in O.S.227/02
of Sub Court, Tirur)

REVISION PETITIONER(/1ST JUDGMENT DEBTOR:

A.K.NIYAS
S/O.AMBAR KOOTTUKKANAKATH ABDULLA
PONNANI AMSOM AND DESOM, PONNANI TALUK.

BY ADV. SRI.S.MOHAMMED AL RAFI

RESPONDENT/DECREE HOLDER:

MAHASUDARSANAM CORPORATION BY ITS RECEIVER
ADVOCATE O.K.KUNHI PORINCHU,
RECEIVER OFFICE, OVUNGAL, P.O.CHAVAKKAD,
MORYA, KUNNUMPURAM, TIRUR TALUK - 680 506.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 04-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.BHAVADASAN, J.

Civil Revision Petition No.38 OF 2015

Dated this the 4th day of February, 2015.

O R D E R

The grievance of the petitioner is that except a bald statement in the affidavit that petitioner is possessed of assets and a statement of PW1 in box, there is absolutely no evidence to show that the petitioner is possessed of assets to pay the decree debt. If, as a matter of fact, petitioner was possessed of property, nothing prevented the person who was examined on behalf of the decree holder to produce documents to establish the same but no document whatsoever was produced and only oral assertions were made regarding the assets of the petitioner. If, as a matter of fact, the petitioner was conducting wholesale business of fish, necessarily there would have been some documents to show the same and that are also not seen produced. Further, petitioner contends that he was not given an opportunity to adduce contra evidence.

2. On going through the order impugned, it is seen that the petitioner suffered a decree and currently, assets of the decree holder is in the possession of the receiver. Receiver's Clerk had given evidence as PW1. He has stated in evidence and in the affidavit that the petitioner is possessed of assets. But no documents were produced. Whatever that be, there is no contra evidence from the petitioner.

3. The petitioner now prays that he may be given an opportunity to adduce evidence to show that whatever is stated in the affidavit is incorrect.

4. Considering the nature of the contentions raised and also the fact that the petitioner says that he has no means to pay the decree debt, it is only proper that an opportunity be given to the petitioner to adduce contra evidence.

This petition is allowed and the impugned order is set aside and the matter is remanded to the trial court for fresh consideration in accordance with law.

Sd/-

P.BHAVADASAN
JUDGE

smp