

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

CRP.No. 714 of 2013 ()

E.P. 162/2004 IN L.A.R. 147/92 OF SUB COURT,
MAVELIKKARA.

REVISION PETITIONER(S)/PETITIONER/DECREE HOLDER:

CHANDRAMATHY,
VELLIYATHU EDALEKE VEEDU, PEROORKARAZHMA MURI,
THAMARAKULAM VILLAGE (P.O).

BY ADV. SMT.ASHA ELIZABETH MATHEW

RESPONDENT(S)/JUDGEMENT DEBTOR:

STATE OF KERALA,
REP. BY THE SECRETARY, REVENUE DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM 695 001.

BY GOVERNMENT PLEADER SHRI. REJI JOSEPH

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 08-04-2015 ALONG WITH C.R.P. NO. 196/2014 &
CON. CASES, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

P.BHAVADASAN, J.

C.R.P. Nos. 714 of 2013 & 196, 228, 233,
235, 237, 238, 244, 310, 315, 458, 471,
518, 519, 520, 534, 693 of 2014

Dated this the 8th day of April, 2015.

ORDER

The limited prayer in these revision petitions relates to the legality of the order of Sub Court, Mavelikkara in the Execution Petitions involved in these revisions, whereby the court below has ordered that the balance statement filed by the State is to be accepted and recorded that the decree debt is fully satisfied.

2. Learned counsel appearing for the petitioners points out that the finding of the court below is not justified and it is not in accordance with law and also that it is not in terms of the principles laid down in the decision in **State of Kerala** vs. **Jose** (2010 KHC 442) wherein in paragraph 3 it is observed as follows:

“Having regard to the submissions made by the counsel on both sides and also perusing the

order impugned in the revision, I find the court below has not followed the correct principles applicable with respect to the apportionment of the amount deposited, to satisfy the decree. In the order, the learned Sub Judge has expressed the view that partial deposit of the amount made by the State to satisfy the decree has to be adjusted on the principal amount due to the decree holder. That view is not correct. The correct mode of apportionment to be made in such cases is clarified in the decision rendered by the Apex Court in Gurpreet Singh v. Union of India, 2006 KHC 1608: 2008 (1) KLJ 463 (SC) : 2006 (8) SCC 457. The decree holder is entitled to claim apportionment of the amount deposited first towards the interest and cost and then only for adjustment in the principal amount due. Evidently, such a method of apportionment has not been followed by the execution court for adjusting the amount from the deposit made. For that solitary reason, the impugned order is liable to be set aside".

3. The case on hand stands on a similar footing and there is no justification as to why the principles laid

down in the above decision cannot be applied to the present case.

For the above reasons, these Civil Revision Petitions are allowed and the impugned orders set aside and the matters are remanded to the lower court for fresh disposal in accordance with law and in the light of what has been stated above. Every endeavour may be made to dispose of the matters as expeditiously as possible, at any rate, within a period of four months from the date of receipt of a copy of this order.

P.BHAVADASAN
JUDGE

sb.