

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

CRP.No. 174 of 2015 ()

IN EP NO.35/2014 IN OS 551/2012 of PRINCIPAL MUNSIF COURT, KOTTAYAM

REVISION PETITIONER(S)/IST JUDGMENT DEBTOR:

THAMPI,
AGED 61 YEARS,
S/O LATE KUNJOONJU PATHIL @ OTTAKANDATHIL,
KUMARAKOM KARA, KUMARAKOM VILLAGE
KUMARAKOM NORTH P.O.,
KOTTAYAM DISTRICT-686 563.

BY ADV. SRI.V.B.PREMACHANDRAN.

RESPONDENT(S)/ DECREE HOLDER AND 2ND JUDGMENT DEBTOR:

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1. REMANI DAS,
AGED 52 YEARS, W/O LATE DAS,
OTTAKANDATHIL, KUMARAKOM KARA,
KUMARAKOM VILLAGE, KUMARAKOM NORTH P.O.,
KOTTAYAM DISTRICT-686 563.
 2. PRASAD,
AGED 38 YEARS, S/O THAMPI,
OTTAKANDATHIL, KUMARAKOM KARA,
KUMARAKOM VILLAGE, KUMARAKOM NORTH P.O.,
KOTTAYAM DISTRICT-686 563.

BY ADV. SMT.SARITHA THOMAS

BY ADV. SRI.SAJEEVAN KURUKKUTTIYULLATHIL.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON
07-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' ANNEXURES :

NIL.

RESPONDENT(S) ' ANNEXURES :

ANNEXURE R1 (A) TRUE COPY OF THE AFFIDAVIT FILED BY THE REVISION PETITION IN AS NO.231/2014.

ANNEXURE R1 (B) TRUE COPY OF THE COUNTER AFFIDAVIT IN THE APPLICATION FOR CONDONING THE DELAY IN AS 231/2014.

ANNEXURE R1 (C) TRUE COPY OF THE COMPLAINT DATED 18/11/2014 AND THE RECEIPT ISSUED THERETO.

ANNEXURE R1 (D) TRUE COPY OF THE COMPLAINT DATED 18/11/2014 AND THE RECEIPT ISSUED THERETO.

ANNEXURE R1 (E) TRUE COPY OF THE REPORT OF THE AMIN DATED 18/09/2014 WITH READABLE COPY.

/TRUE COPY/

P.A.TO JUDGE

RVS.

B.KEMAL PASHA, J.

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C.R.P.No.174 of 2015

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Dated this the 7th day of August, 2015

ORDER

A decree of injunction has been violated by the judgment debtor, who is the petitioner herein. By violating the decree, it seems that he committed trespass into the decree schedule property and cut open a new pathway. Numerous waste and extensive damage were also caused in the property. E.P. has been filed by the decree holder.

2. Counter was filed by the petitioner. PWs 1 to 4 were examined on the side of the decree holder. No evidence was adduced by the judgment debtor, who is the petitioner herein. The only contention taken by him is that he is a 70 year old man. The court below through the impugned order allowed the E.P and ordered a compensation of ₹15,000/- to be paid by the judgment debtor to the decree holder together with cost of the proceedings. The judgment debtor is ordered to be detained

in civil prison for thirty days.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

4. This court has made earnest efforts to get the matter settled by having a recourse to the procedure of mediation. Parties were referred for mediation. Mediation failed.

5. Still the only argument put forwarded by the learned counsel for the petitioner is that the petitioner is a 70 year old man and he may not be detained in civil prison for thirty days as ordered by the court below. According to the learned counsel for the petitioner, the petitioner is sick also.

6. *Per contra*, the learned counsel for the respondents has pointed out that the petitioner is 61 years old and not 70 year old as alleged. The present request of the learned counsel for the petitioner is that, being a senior citizen leniency may be shown to the petitioner by limiting his detention till the rising of the court.

7. Considering the facts and circumstances of the

case and the damage done by the petitioner in the property by violating the decree, this Court is of the view that the petitioner is not entitled to any leniency. The impugned order does not suffer from any illegality, irregularity or impropriety and the same is not liable to be interfered with. The court below has considered all the aspects and has passed the impugned order. Matters being so, this C.R.P is devoid of merits, and it is only to be dismissed, and I do so.

In the result, this C.R.P. is dismissed.

Sd/-

B.KEMAL PASHA
JUDGE