

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

CRP.No. 387 of 2015

**AGAINST THE ORDER IN E.P.NO.30 OF 2013 IN O.S.NO.248 OF 2012 OF THE
PRINCIPAL SUB COURT, ERNAKULAM DATED 12.06.2015**

REVISION PETITIONER(S)/JUDGMENT DEBTOR/DEFENDANT :

**MURALI MENON,
S/O.PADMANABHAMENON, RESIDING AT DOOR NO.33/2328,
B(15) FLAT NO.215, ROAYAL PARK APARTMENTS,
N.H.BYE PASS, THAMMANAM P.O., PONNURUNNI,
POONITHURA VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.BABU CHERUKARA
SMT.ROSAMMA MATHEW
SRI.P.A.SALIM
SRI.ANZAR BASHEER
SRI.P.ANTO THOMAS**

RESPONDENT(S)/DECREE HOLDER/PLAINTIFF :

**JACOB CHACKO,
S/O.LATE V.C.CHACKO, RESIDING AT SUNIL NIVAS,
CHILAVANNOOR ROAD, KADAVANTHRA P.O., COCHIN-682 020.**

**BY ADVS. SRI.B.V.JOY SANKER
SRI.MATHEWS JOSEPH**

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 31-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

NIL

RESPONDENT(S)' ANNEXURES :

ANNEXURE R1(A): TRUE COPY OF THE AWARD DATED 28.09.2012 BY
THE LOK ADALAT, ERNAKULAM.

ANNEXURE R1(B): TRUE COPY OF THE CERTIFIED COPY OF THE
M.P.NO.1508/2012 LATER CONVERTED AS C.C.NO.98/2014.

ANNEXURE R1(C): TRUE COPY OF THE AGREEMENT DATED 28.09.2012.

ANNEXURE R1(D): TRUE COPY OF THE OBJECTION FILED BY THE JUDGMENT
DEBTOR IN THE E.P.NO.30/2013 IN O.S.NO.248/2012 OF
THE HON'BLE SUB COURT, ERNAKULAM.

ANNEXURE R1(E): TRUE COPY OF THE OBJECTION FILED BY RESPONDENT IN
E.A.NO.432/2013.

ANNEXURE R1(F): TRUE COPY OF THE PROOF AFFIDAVIT OF THE REVISION
PETITIONER.

ANNEXURE R1(G): TRUE COPY OF THE JUDGMENT IN C.C.NO.757/2012.

ANNEXURE R1(H): TRUE COPY OF THE PROCEEDINGS IN E.P.NO.30/2013 IN
O.S.NO.248/2012 DOWNLOADED FROM E-COURT
SERVICES.

//TRUE COPY//

PA.TO JUDGE.

Msd.

B.KEMAL PASHA, J.

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C.R.P.No.387 of 2015

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Dated this the 31st day of July, 2015

ORDER

Order dated 12.06.2015 passed by the Subordinate Judge's Court, Ernakulam in E.P.No.30 of 2013, whereby warrant has been ordered against the judgment debtor, who is the petitioner herein, is under challenge. According to the petitioner, all his properties are under attachment and he has no means to pay the decree amount and therefore, the court below ought not to have ordered warrant under Order XXI Rule 37 CPC.

2. *Per contra*, the learned counsel for the respondent has pointed out that the means of the petitioner to pay off the decree debt in lump sum has been proved before the court below and the impugned order is not liable to be interfered with. It seems that the decree holder was examined in the court below as PW1. According to the

decree holder, the judgment debtor has not even pleaded 'no means'. PW1 has given evidence to the effect that the judgment debtor has enough money to pay off the decree debt. Exhibit B1 agreement and Exhibit B2 sale deed were proved. The court below has found that there is absolutely nothing to show from Exhibits B1 and B2 that the said documents relate to the transaction in question. It seems that the court below has discussed the evidence and has ordered warrant under Order XXI Rule 37 CPC on the satisfaction that the petitioner/judgment debtor has means to pay off the decree debt. The impugned order does not suffer from any illegality, irregularity or impropriety and therefore, the same is not liable to be interfered with.

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

Sd/-

B.KEMAL PASHA
JUDGE