

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

CRP.No. 390 of 2015 ()

**AGAINST THE ORDER DATED 10.3.2015 IN EP NO. 253/2008 IN OS NO.152/2005
OF MUNSIFF COURT, MANCHERI**

PETITIONER/PETITIONER/DECREE HOLDER :

**PALOLI C.K.VIJAYAKUMAR
AGED 56 YEARS, PALOLI VEEDU,
CHARUVANOOR AMSOM, KOYILANDY TALUK
KOZHIKODE DISTRICT, PIN-673 524**

**BY ADVS.SRI.K.RAKESH ROSHAN
SMT.THUSHARA V.**

RESPONDENT/RESPONDENT/DECREE DEBTOR :

**JOSE PEETER,
AGED 45 YEARS, S/O. PEETER
PARAKANCHERY, VADUPURAM P.O., MAMPADU (VIA)
MALAPPURAM.**

**THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 14-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

B. KEMAL PASHA, J.

.....
C.R.P. No.390 of 2015
.....

Dated this the 14th day of July, 2015

ORDER

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Heard learned counsel for the petitioner.

2. It seems that an EP has been sent to the court below for execution with a precept. According to the petitioner, the judgment debtor has got properties within the jurisdiction of the court below and further that he is residing within the jurisdiction of the court below. Notice under Order XXI Rule 37 CPC was issued. It seems that a report has come before the court below that the judgment debtor is abroad. By noting down that the judgment debtor is abroad, the court below has dismissed the EP.

3. The petitioner has got serious contentions that the wife of the judgment debtor is a court staff working at the premises in which the court below is situated and there were serious interferences from her part. On several occasions,

the warrants were caused to be returned. In such a case, just as adding insult to injury, the court below has dismissed the EP.

4. The course adopted by the court below is highly illegal, irregular and improper. The court below ought not have dismissed the EP, without giving another opportunity to the petitioner to take further steps in the matter. Therefore, the impugned order passed by the court below is only to be set aside and I do so.

In the result, this C.R.P. is allowed and the impugned order is set aside. The EP is revived and the court below shall dispose of the EP in accordance with law, after giving sufficient opportunities to the petitioner to take further steps in the matter. The petitioner shall report before the court below on 28.07.2015.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/14/07

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PA to Judge