

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE SMT. JUSTICE P.VASHA

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

FAO.No. 77 of 2012

AGAINST THE JUDGMENT IN OS 771/2004 of II ADDL.SUB COURT,THRISSUR DATED 3.2.12

APPELLANT/PETITIONERS/JUDGMENT-DEBTORS:

1. LAND MARK CONSTRUCTIONS
VADAKECHIRA DESOM, CHEMBUKAVU VILLAGE, THRISSUR TALUK
REPRESENTED BY MG.PARTNER, FRANCIS KALLIYATH.
2. FRANCIS KALLIYATH.
S/O.KALLIYATH VEETIL JACOB, MISSION QUARTERS DESOM
THRISSUR VILLAGE, THRISSUR TALUK.
3. ANNA FRANCIS
W/O.FRANCIS KALLIYATH, KALLIYATH VEETIL
MISSION QUARTERS DESOM, THRISSUR VILLAGE
THRISSUR TALUK.
4. KALLIYATH SUPER MARKET
THRISSUR, REPRESENTED BY MG.PARTNER, FRANCIS KALLIYATH.
5. FRANCIS KALLIYATH.
S/O.KALLIYATH VEETIL JACOB, MISSION QUARTERS DESOM
THRISSUR VILLAGE, THRISSUR TALUK.
6. ANNA FRANCIS
W/O.FRANCIS KALLIYATH, KALLIYATH VEETIL
MISSION QUARTERS DESOM, THRISSUR VILLAGE
THRISSUR TALUK.

BY ADVS.SRI.P.B.KRISHNAN
SMT.GEETHA P.MENON
SRI.N.AJITH
SRI.P.B.SUBRAMANYAN

RESPONDENTS/RESPONDENT IN EA, DECREE HOLDER-CUM-AUCTION PURCHASER:

KSHEMAVILASAM KURI COMPANY (P) LTD.
ROUND NORTH, THRISSUR-680 001.

R1 BY ADV. SRI.JIMMY JOHN VELLANIKARAN

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 15-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & P.V.ASHA, JJ.

F.A.O.No.77 of 2012

Dated this the 15th day of December, 2015

JUDGMENT

Antony Dominic, J.

The judgment debtors in E.P.279/09 in O.S.771/04 on the file of the II Additional Sub Court, Thrissur have filed this appeal aggrieved by the order passed by that court dismissing E.A.768/11 filed under Order XXI Rule 90 seeking to set aside the sale in execution of the decree. Along with I.A.1352/15, the appellants have produced Annexures A and B, which are accepted on record. Annexure A shows that the decree holder has acknowledged satisfaction of the decree. Annexure B is a copy of E.A.1486/15 filed by the decree holders themselves, informing the Execution Court that in view of the satisfaction of the decree, they have no objection in setting aside the sale in which they themselves are the purchasers. These facts are confirmed by the counsel appearing for the respondent decree holder as well.

In the aforesaid circumstances, this appeal is disposed of recording that the decree in OS.771/04 of

the II Additional Sub Court, Thrissur is satisfied and that the sale, which was sought to be set aside in E.A.768/11, will stand set aside. It is also made clear that it will be open to the decree holder to claim refund of the cost of stamp papers in accordance with law.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
P.V.ASHA, Judge.

k kb.