

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE SUNIL THOMAS

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

FAO.No. 301 of 2012 ()

AGAINST THE ORDER IN E.A.481/10 IN E.P.23/09 IN OS 30/2005 of SUB
COURT, OTTAPPALAM

APPELLANT/PETITIONER/1ST RESPONDENT:

MURALEEDHARAN
S/O. LATE SREEDHARAN, PATHIRIKKOTTIL VEEDU, P.O.
S.R.K.NAGAR, OTTAPALAM, PALAKKAD DISTRICT.

BY ADV. SRI.P.JAYARAM

RESPONDENT/RESPONDENT/DECREE HOLDER:

MAYILVAHANAM FUNDS (P) LTD.
REPRESENTED BY MANAGING DIRECTOR, C.A.THAMBI
S/O. C.A.ABRAHAM, CHEMMARIKKAT VEEDU, SHORNUR
PALAKKAD-679121.

BY ADV. SRI.MILLU DANDAPANI

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION
ON 12-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**THOTTATHIL B. RADHAKRISHNAN &
SUNIL THOMAS, JJ.**

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F.A.O.No.301 of 2012

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Dated this the 12th day of June, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

Heard.

2. This appeal is against an order dismissing an application under Order XXI Rule 90 of the C.P.C. The plea projected was that the subject matter of the application is also the subject matter of a partition suit and that the judgment debtor has only a fractional interest. It is contended that other co-sharers have a preferential right to bid in the auction. No co-sharer had appealed against. There was also no co-sharer contesting proceedings before the court below. An interim order was issued by this Court on 08.10.2012 deferring further proceedings before the court below if an amount of Rs.3,00,000/- is shown before the court below by way of fixed deposit receipt. That was also not done. In the meanwhile, delivery proceedings had been carried forward and now there is another suit through the brother of the appellant which is stated to

be a suit for partition. We do not see any merit in this appeal to call for interference with the impugned order.

This appeal fails. It is accordingly dismissed.

Sd/-

THOTTATHIL B. RADHAKRISHNAN
Judge

Sd/-

SUNIL THOMAS
Judge

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