

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

Ex.FA.No. 9 of 2015 ()

(AGAINST THE ORDER/JUDGMENT IN EP 3/2012 of PRINCIPAL SUB
COURT,ERNAKULAM)

APPELLANT(S)/JUDEMENT DEBTOR/RESPONDENT:

N.K. KUNJAPPAN, AGED 50 YEARS,
S/O. KUNJU NARAYANAN, MULLASSERIL HOUSE, MANJUMMEL,
THALACODE.P.O., MULANTHURUTHY VILLAGE
KANAYANNUR TALUK, ERNAKULAM.

BY ADVS.SRI.K.S.DILIP
SRI.SAJU N.A.
SMT.A.I.HAYARUNNISA

RESPONDENT(S)/DECREE HOLDER/CLAIMANT:

THE MULANTHURUTHY HOUSING
NO.E 304, MULANTHURUTHY
KOCHI-682314.(AFFILATED TOKERALS STATE CO-OPERATIVE HOUSING
FEDERATION LTD. 4330)

R1 BY ADV. VARGHESE P CHACKO

THIS EXECUTION FIRST APPEAL HAVING BEEN FINALLY HEARD ON 18-
06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

EXE.F.A No. 9 of 2015

Dated this the 18th day of June, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

Heard the learned counsel for the appellant.

2. The respondent Co-operative Society has put an arbitration award for execution as it is a decree. It appears that the said award also provides a charge on an item of property. When such a decree was put in execution, the court below issued a notice under Rule 22 of Order XXI. When objections were raised to that, the court below ordered notice under Order XXI Rule 37, which ought to be resorted to, in the first instance, in execution of personal decrees and not charged decrees. We do not find any illegality in the court below having refused to uphold the objections of the appellant as regards the notice under Order XXI Rule 22. The court below has come out with fresh notice issued under Order XXI Rule 37. As regards that, it will be open to the appellant to contend before the court below that the said provision cannot be invoked having regard to the nature of the decree which is put in

execution. Leaving open all such rights of the appellant to raise objections, this appeal is dismissed.

Sd/-

THOTTATHIL B.RADHAKRISHNAN
Judge

Sd/-

SUNIL THOMAS
Judge

dpk

/true copy/ PS to Judge.