

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

FAO.No. 271 of 2013 ()

AGAINST THE ORDER DATED 20.2.2013 IN EA.1275/2011 IN EP.20/2010 IN OS
851/2007 of II ADDL.SUB COURT,THRISSUR

APPELLANT/PETITIONER/2ND JUDGMENT DEBTOR/DEFENDANT IN OS:

THANKAMMA THOMAS, AGED 55 YRS.,
W/O.POTTOKARAN THOMAS, CHIYYARAM VILLAGE
CHIYYARAM DESOM, THRISSUR TALUK, THRISSUR.

BY ADV. SRI.RANJITH XAVIER

RESPONDENTS:

MAHESHWARA CHITS AND ADVANCES
KOORKENCHERY VILLAGE, THRISSUR TALUK
REPRESENTED BY ITS MANAGING PARTNER, NAINAN
S/O.BALASUBRAMANYAN, VELIYANNUR VILLAGE
VELIYANNUR DESOM, H.NO.13/744
THRISSUR TALUK. 680 021.

R1 BY ADV. SRI.S.RAJEEV

R1 BY ADV. SRI.K.K.DHEERENDRAKRISHNAN

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION
ON 21-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

**ANTONY DOMINIC &
P.V.ASHA, JJ.**

F.A.O.No.271 of 2013

Dated this the 21st day of November, 2015

JUDGMENT

Antony Dominic, J.

The second judgment debtor in E.A.No.1275 of 2011 in E.P.No.20 of 2010 in O.S.No.851 of 2007 on the file of the IInd Additional Sub court, Thrissur is the appellant. By the order in E.A.No.1275 of 2011 filed by the appellant, the execution court dismissed her application filed under Order XXI Rule 90 of CPC to set aside the sale conducted in execution of the decree.

2. By order dated 24.6.2014, this appeal was referred for mediation. Accordingly the dispute was mediated at the Ernakulam Mediation Centre (High Court) and the parties have entered into memorandum of settlement dated 24.6.2014 which will form part of this judgment. It is agreed by the learned counsel for both parties that the appellant has made the agreed payments on 24.7.2014 and 24.3.2015. In view of the payments so made by her, as agreed in clause 4 of the memorandum of settlement the auction sale held on 6.6.2011 in E.P.No.20 of

F.A.O.No.271 of 2013

:2:

2010 in O.S.No.851 of 2007 before the IInd Additional Sub court, Thrissur is liable to be set aside. Accordingly the auction sale held on 6.6.2011 is set aside.

The appeal is disposed of, making it clear that the respondent shall be at liberty to get refund of the value of the stamp papers and the amount deposited towards sale consideration before the execution court.

Sd/-
ANTONY DOMINIC,
JUDGE.

Sd/-
P.V.ASHA,
JUDGE.

rkc

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PA to Judge