

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

FAO.No. 313 of 2014 ()

AGAINST THE ORDER IN EA 154/2014 IN EP 331/2012 IN OS467/2010 ON THE
FILE OF THE PRINCIPAL SUB COURT, IRINJALAKUDA DT.8.7.2014

APPELLANT/JUDGEMENT BEBTOR/DEFENDANT:

SASI MENON
S/O. CHALIPPURATH SAUDAMINI AMMA, VELLANGALLUR DESOM
VADAKKUMKARA VILLAGE, MUKUNDAPURAM TALUK
THRISSUR DISTRICT.

BY ADVS.SRI.K.S.RAJESH
SRI.M.SHAJU PURUSHOTHAMAN

RESPONDENT/DECREE HOLDER/PLAINTIFF:

K.JAGADEESH
S/O. CHAKKANCHATH VEETIL DIVAKARA MENON, XX/149
CHETTIPPARAMBU DESOM, IRINJALAKUDA VILLAGE
MUKUNDHAPURAM TALUK, THRISSUR DISTRICT.

R1 BY ADV. SRI.VAKKOM N.VIJAYAN
R1 BY ADV. SMT.V.RENJU

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON
16-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

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

F.A.O.No.313 of 2014

Dated this the 16th day of November, 2015

JUDGMENT

Antony Dominic, J.

This appeal is filed by the defendant in O.S.No.467 of 2010 on the file of the Principal Sub Court, Irinjalakkuda. The suit was filed by the respondent/plaintiff for recovery of money. The suit was decreed and E.P.No.331 of 2012 was filed. Ultimately property of the respondent was sold and decree holder purchased the property with the permission of the court. Subsequently the appellant filed E.A.No.154 of 2014 under order 21 rule 9 CPC for setting aside the sale. That E.A. was dismissed by order dated 8.7.2014. It is aggrieved by this order, the appeal is filed. In the meanwhile the sale was also confirmed.

2. At the time when the appeal was admitted, this Court passed order dated 27.2.2015 in I.A. No.1614 of 2014 granting stay of delivery of the property sold in execution to the decree holder subject to the appellant depositing Rs.3,00,000/-(Rupees Three lakhs only). That order was complied with. Subsequently

order dated 29.5.2015 was passed requiring remittance of Rs.7,00,000/- (Rupees Seven lakhs only). That order was also complied with. As a result of the above, as at present the appellant has deposited a total amount of Rs.10,00,000/- (Rupees Ten lakhs only) which is lying in court deposit. Today when the matter was taken up, counsel for the appellant expressed his willingness to deposit the balance decree amount due to the respondent/decree holder. On behalf of the decree holder, it was submitted in Court that if the appellant is paying the entire decree amount and cost including the value of the stamp papers, the respondent has no objection for setting aside the sale.

Taking note of the submissions thus made, it is ordered that in addition to Rs.10,00,000/- (Rupees Ten lakhs only) already deposited by the appellant, if the appellant pays/deposits the entire balance amount due from him along with costs, including the value of the stamp papers within a period of three months from today, the sale in favour of the decree holder in E.P.No.331 of 2012 will stand set aside. It is also made clear that in the

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event of non compliance of these conditions the decree holder will be entitled to delivery of the property in accordance with law.

Appeal is disposed of accordingly.

Sd/-
ANTONY DOMINIC,
JUDGE.

Sd/-
P.V.ASHA,
JUDGE.

rkc