

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

OP(C).NO. 1358 OF 2012 (O)

E.P.NO.186/2010 IN O.S.NO.415/2008 OF MUNSIFF'S COURT, OTTAPALAM

PETITIONER:

**DEVADAS, AGED 54 YEARS
S/O.PADMANABHAN, PALLAMPATTIYIL HOUSE, SHORANUR -1
OTTAPALAM TALUK.**

**BY ADVS.SMT.T.D.RAJALAKSHMI
SRI.R.SREEHARI**

RESPONDENT:

**MANAPPURAM ASSET FINANCE LIMITED
SHORANUR, REPRESENTED BY MANAGING DIRECTOR
MRS. JYOTHI PRASANNAN, W/O.P.D.PRASANNAN
PUZHAKKADAVIL HOUSE, CIVL LANES ROAD, THRISSUR.P.O.,
THRISSUR-680 021.**

**R1 BY ADVS. SRI.V.B.UNNIRAJ
SMT.R.S.GEETHA
SMT.P.ANITHA**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 02-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AS

OP(C).NO. 1358 OF 2012 (O)

APPENDIX

PETITIONER(S) EXHIBITS:

- EXHIBIT P1: TRUE COPY OF EXECUTION PETITION NO.186/2010 IN OS 415/08
BEFORE MUNSIFF COURT, OTTAPALAM, DATED 30.10.2010.
- EXHIBIT P2: TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER AND
ANOTHER IN EP 186/2010 IN OS 415/08 MUNSIFF COURT, OTTAPALAM.
- EXHIBIT P3: TRUE COPY OF THE ORDER PASSED IN EP 186/2010 IN OS 415/08 BY
THE MUNSIFF COURT, OTTAPALAM, DATED 15.03.2012.

RESPONDENTS' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE

A.HARIPRASAD, J.

O.P.(C).No.1358 of 2012

Dated this the 2nd day of June, 2015

J U D G M E N T

Petitioner is the defendant in O.S.No.415 of 2008 on the file of the court of Munsiff, Ottapalam. The suit is one for recovery of money filed by the respondent. The suit was decreed. The plaintiff put the decree in execution and filed E.P.No.186 of 2010. The impugned order was passed by the Executing Court. It is Ext.P3. The court below conducted an enquiry regarding means of the petitioner and found that the petitioner is having sufficient means to satisfy the claim in the decree.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. Learned counsel for the petitioner contended that the impugned order is not in conformity with the legal provisions.

4. Learned counsel for the respondent refuted this submission. I have gone through the impugned order. The court below has considered evidence adduced before it to find that the petitioner has sufficient means to pay off the liability. It is also seen by the court below that the

petitioner by doing an avocation of tailoring is getting income to clear off the liability. Therefore, the court below rightly found that the petitioner has means to pay to discharge the claim in the decree.

5. Learned counsel for the petitioner submitted that the petitioner may be given a reasonable time to discharge the decree debt.

6. Learned counsel for the respondent/decreed holder opposed this submission. Considering the facts that the decree amount is approximately Rs.54,000/- and the petitioner is willing to pay of the liability in instalments, the following order is passed:

The petitioner/judgment debtor shall pay off the entire decree debt in 5 equated monthly instalments starting from 01.07.2015.

If the judgment debtor fails to pay any two successive instalments the decree debtor is free to proceed with the execution in its entirety.

A.HARIPRASAD, JUDGE.