

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

OP(C).No. 24 of 2015 (O)

E.P.191/2011 IN O.S.340/2006 OF 1ST ADDL.
SUB COURT, N. PARUR.

PETITIONER(S)/CLAIM PETITIONER:

CHURCH OF SOUTH INDIA TRUST ASSOCIATION,
NORTH KERALA DIOCESE, SHORNUR - 679 121,
REPRESENTED BY ITS PRESENT AUTHORISED
POWER OF ATTORNEYS, AND PERSONS PRINCIPALLY
IN MANAGEMENT, NAMELY RT. REV. DR.B.N. FENN,
BISHOP IN CHURCH OF SOUTH INDIA TRUST ASSOCIATION,
NORTH KERALA DIOCESE, SHORNUR - 679 121.

BY ADVS.SRI.SREELAL N.WARRIER
SRI.K.P.PAUL SAJAN (KUNUKKASSERIL)

RESPONDENT(S) DECREE HOLDER & KIDGMENT DEBTORS 1 & 2:

1. G.K. ENGINEERING WORKS, REPRESENTED BY
ITS PROPRIETOR, RESIDING AT C.S.I. COMPOUND,
ALUVA- 683 101.
2. ST. JOHN THE BAPTIST CHURCH,
REPRESENTED BY ITS MANAGER,
ALUVA - 683 101.
3. M/S. FORMS INDIA, CONSULTANT ENGINEERS,
PALARIVATTOM JN., COCHIN - 682 025.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

O.P.(C) 24 OF 2015

APPENDIX

PETITIONER'S EXTS.

EXT.P1 : TRUE PHOTOCOPY OF THE E,P. NO. 191 OF 2011 WITH ATTACHMENT SCHEDULE IN O.S. NO. 340/1996 OF ADDL. SUB COURT, N. PARUR.

EXT. P2 : TRUE PHOTOCOPY OF THE CLAIM PETITION E.A. 368/2012 IN EXT. P1 EXECUTION PETITION OF ADDL. SUB COURT, N. PARUR (FILED UNDER ORDER 21 RULE 58 OF THE CODE OF CIVIL PROCEDURE, 1908)

EXT. P3 : TRUE PHOTO COPY OF THE E.A. NO. 919 OF 2014 FOR RESTORING THE EXT. P2 CLAIM PETITION E.A. NO. 368/2012.

EXT. P4 : TRUE PHOTO COPY OF E.A. NO. 920 OF 2014 FOR CONDONATION OF DELAY IN FILING EXT.P3 RESTORATION PETITION.

EXT. P5 : TRUE PHOTO COPY OF THE CERTIFIED EXTRACT OF THE TOWN SURVEY FIELD REGISTER SHOWING THE NAME OF THE PETITIONER AS THE OWNER OF ATTACHED SCHEDULE PROPERTY.

EXT. P6 : TRUE PHOTO COPY OF THE PROPERTY TAX RECEIPTS SHOWING -DO- -DO-

P. BHAVADASAN, J.

O.P.(C). No. 24 of 2015

Dated this the 6th day of January, 2015.

JUDGMENT

The limited prayer in this petition is for a direction to the Sub court, North Parur to consider and dispose of the application filed for restoring the claim petition filed by the petitioner, which was dismissed for default, and the application for condonation of delay in filing the restoration application before proceeding with the sale of the property.

2. The claim of the petitioner is that he is not a party to the decree in execution of which the property is being brought to sale. Coming to know about the attachment of the property, the petitioner has filed a claim petition which unfortunately happened to be dismissed for default. Soon, coming to know of the dismissal of the claim petition, the petitioner has filed a restoration application and a petition to condone the delay. The court below, according to the

petitioner, instead of dealing with those petitions, posted the petitions to 8.1.2015, the date on which the sale is scheduled to be conducted. The above act of the court below brought the petitioner before this Court.

3. In the nature of the order that is proposed to be passed in this petition, notice to the respondents appears to be unnecessary.

This petition is disposed of with a direction to the court below to take up and dispose of the restoration application and the delay condonation petition before proceeding with the sale of the property. If those petitions are allowed, the court below will proceed with the sale of the property only after the disposal of the claim petition filed by the petitioner.

P. BHAVADASAN,
JUDGE

sb.