

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

OP(C).No. 1365 of 2013 (O)

AGAINST THE ORDER IN E.P.No.71/2011 IN OS 107/2005 of SUB
COURT, NEYYATTINKARA DATED 11.02.2013

PETITIONER/DECREE HOLDER/PLAINTIFF:

SASI, AGED 57 YEARS,
S/O SANKARAN NADAR, BELSSY BHAVAN,
PANANINNA, TIRUPURATHOOR DESOM, THIRUPURAM VILLAGE.

BY ADV. SRI.L.RAJESH NARAYAN IYER

RESPONDENT/JUDGMENT DEBTOR/DEFENDANT:

BINDU S.J.GEORGE
P.D. TEACHER, M.K.MEMORIAL L.P.S.
PONGIL FROM PONGUVILA PUTHEN VEEDU, VENPAKAL DESOM,
ATHIYANNOOR VILLAGE-695 123.

R1 BY ADV. SRI.K.KESAVANKUTTY

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP(C).No. 1365 of 2013 (O)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1: COPY OF THE JUDGMNET DATED 5.4.2006 IN
O.S.NO.107/2005 OF THE HON'BLE SUB COURT, NEYYATTINKARA.

EXHIBIT P2: COPY OF THE EXECUTION PETITION AS E.P.NO.71/2011
DATED 28.3.2011.

EXHIBIT P3: COPY OF THE AFFIDAVIT DATED 7.10.2011.

EXHIBIT P4: COPY OF THE ORDER DATED 11.2.2013 IN E.P.71/11 IN
O.S.NO.107/05 ON THE FILES OF THE SUB COURT, NEYYATTINKARA.

RESPONDENTS' EXHIBITS :

NIL

// True Copy //

P.A. To Judge

DSV/21/5/15

B.KEMAL PASHA, J.

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Dated this the 20th day of May, 2015

J U D G M E N T

Initially there was an attachment of the salary of the judgment-debtor for a period of 24 months. When subsequently, further attachment was sought for from the salary, it seems that the court below has rightly declined to do so within the meaning of the proviso to Section 60 (i) of the Code of Civil Procedure, 1908. Even though the learned counsel for the petitioner has taken a stand that what is exempted from attachment through the said proviso is “such portion” of the salary that was attached, a reading of the provision clearly shows that the provision regarding “such portion” is meant only when the execution of another decree is sought for. If it is the very same decree, it is finally

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exempt from attachment.

Without prejudice to the right of the decree-holder to have recourse to the provisions under Order XXI Rule 37 CPC, this Original Petition (Civil) is dismissed.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/20/5/15