

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

OP(C).No. 199 of 2015 (O)

EP NO. 135/2010 IN OS NO. 308/2009 OF ADDITIONAL SUB COURT, NORTH ARAVUR

PETITIONER/NOT PARTY IN THE EP:-:

**JESSY SAJU,W/O.SAJU THOMAS,
NARAKATHADATHIL HOUSE, ILLITHODE KARA,
MALAYATTUR VILLAGE.**

**BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA**

RESPONDENT/DECREE HOLDER IN THE EP:-:

**SHAJI, S/O. SAKTHIDHARAN,
EKKORUPARAMBIL HOUSE, ILLITHODE KARA,
MALAYATTOOR VILLAGE - 683 587.**

**BY ADV. SRI.P.B.PRADEEP
BY ADV. SMT.S.LEKHA**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 10-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

OP(C).No. 199 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF E.P.NO.135/2010 IN O.S.NO.308/2009 OF THE SUB COURT, NORTH PARAVUR DATED 19.03.2010.
- EXHIBIT P2: TRUE COPY OF THE SALE PROCLAMATION IN E.P.NO.235/2010 IN O.S.NO.308/2009 OF THE ADDITIONAL SUB COURT, NORTH PARAVUR DATED 12.06.2012.
- EXHIBIT P3: TRUE COPY OF E.A.NO.425/2014 IN E.P.NO.135/2010 IN O.S.NO.308/2008 OF THE ADDITIONAL SUB COURT, NORTH PARAVUR DATED 17.07.2014.
- EXHIBIT P4: TRUE COPY OF E.A.NO.802/2014 IN E.P.NO.135/2010 IN O.S.NO.308/2009 OF THE ADDITIONAL SUB COURT, NORTH PARAVUR DATED 13.11.2014.
- EXHIBIT P5: TRUE COPY OF THE ORDER OF THE ADDITIONAL SUB COURT, NORTH PARAVUR IN E.A.NO.425/2014 IN E.P.NO.135/2010 IN O.S.NO.308/2009 DATED 18.11.2014.
- EXHIBIT P6: TRUE COPY OF THE ORDER OF THE ADDITIONAL SUB COURT, NORTH PARAVUR IN E.A.NO.803/2014 IN E.P.NO.135/2010 IN O.S.NO.308/2009 DATED 18.11.2014.

RESPONDENT(S)' EXHIBITS :

- EXT.R1(a): COPY OF THE OBJECTION DT 25/6/2011 TO THE CLAIM PETITION FILED BY THE PETITIONER.
- EXT.R1(b): COPY OF THE FAIR VALUE REPORT FIXED BY THE GOVERNMENT
- EXT.R1(c): COPY OF THE APPLICATION E.A. NO. 833/2012 TO REDUCE THE UPSET PRICE FILED BY DECREE HOLDER.

//TRUE COPY//

P.A. TO JUDGE

bp

B. KEMAL PASHA, J.

.....
O.P.(C) No.199 of 2015
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Dated this the 10th day of July, 2015

J U D G M E N T

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The wife of the judgment debtor in EP.135/2010 has preferred EA.803/2014 as well as EA.425/2014 claim petition claiming that she is in possession of the property and she is residing in the residential building situated in the property. When the matter was posted for evidence, she has not turned up and consequently, the court below has dismissed both the EAs through Exts.P5 and P6 orders respectively.

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

3. The learned counsel for the respondent/decreed-holder has pointed out that the petitioner has not forwarded any independent right of claim over the property other than the fact that she happens to be the wife of the judgment

debtor. It has also been pointed out that the residential building in the property has been excluded from sale.

4. Even though a chance of mediation was given, the matter has not been settled. On hearing the learned counsel for the parties and on perusing the records, this Court is of the view that Exts.P5 and P6 are not liable to be interfered with in any manner.

Matters being so, this O.P.(Civil) is dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/10/07

// True Copy //

PA to Judge