

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE B.KEMAL PASHA

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

OP(C).No.227 of 2015 (O)

OS NO.21/2014 of SUB COURT,SULTHAN BATHERY.

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PETITIONER:

**P.R.DANAVAN,AGED 60 YEARS,S/O.RAJAPPAN,
PARAMBATHERIL HOUSE,NEDUVANNOOR,
CHOVARA P.O,ERNAKULAM DISTRICT.**

BY ADV.SRI.K.R.VINOD

RESPONDENT'S:

**MUTHOOT FINANCE LTD.,MUTHOOT CHAMERS,2ND FLOOR,
OPP.SARITHA THEATRE COMPLEX,BANERJEE ROAD,
KOCHI-18,REP. BY ITS BRANCH MANAGER,
MANANTHAVADI BRANCH,MR.JAYAPRAKASH P.V,
IST FLOOR,K.P.C BUILDINGS,OPP.CATHOLIC SYRIAN BANK,
MANANTHAVADI P.O,WAYANAD DISTRICT.**

**BY SRI.SREELAL WARRIER (SENIOR ADVOCATE)
ADV.SRI.ABDUL JALEEL.A**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 29-05-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

pk

APPENDIX

PETITIONER'S EXHIBITS:

- P1: THE COPY OF THE PLAINT IN OS 21/2014 IN THE FILES OF THE SUB COURT, SULTHANBATHERY.
- P2: THE COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONER.
- P3: THE COPY OF THE IMPEADING PETITION IA NO.853/2014 FILED BY THE RESPONDENT HEREIN IN OS NO.21/2014 DATED 26.8.2014.
- P4: THE COPY OF THE OBJECTION FILED BY THE PETITIONER HEREIN THE IMPEADING PETITION.
- P5: THE TRUE COPY OF THE ORDER IN IA NO.853/2014 OF THE SUB COURT, SULTHANBETHERY DTD 17/10/2014 IN O.S.21/2014.

RESPONDENT'S EXHIBITS:

- EXT.R1: TRUE COPY OF THE REPORT RECEIVED UNDER THE RIGHT TO INFORMATION ACT REVEALING THE CRIMINAL ANTECEDENT'S OF THE PETITIONER.
- EXT.R1(a): TRUE COPY OF THE ENCUMBRANCE CERTIFICATE NO.7770/14 DATED 28.6.2014.
- EXT.R1(b): TRUE COPY OF THE EP NO.13/2015 BEFORE SUB COURT, NORTH PARAVUR.
- EXT.R1(c): A TRUE COPY OF GARNISHEE AFFIDAVIT FILED BEFORE SUB COURT,NORTH PARAVUR.
- EXT.R1(d): TRUE COPY OF THE HISTORY SHEET REGISTRATION DETAILS OF PETITIONER.
- EXT.R1(e): NEWS PAPER REPORTING REGARDING CONVICTION OF THE PETITIONER PUBLISHED IN MALAYALA MANORAMA DAILY DATED 28TH AUGUST, 2010.

//TRUE COPY//

P.S. TO JUDGE

B. KEMAL PASHA, J.

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O.P.(C) No.227 of 2015
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Dated this the 29th day of May, 2015

J U D G M E N T

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What is under challenge is Ext.P5 order passed by the court below in IA.853/2014 in OS.21/2014. It seems that unnecessarily, the Manager of the Federal Bank Limited, Nedumbassery Branch has been impleaded as the 2nd respondent in IA.620/2014.

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

3. The learned counsel for the respondent has fairly conceded that the said party impleaded as the 2nd respondent in the IA is not a necessary party at all and at the most, he is only the garnishee. The order is *per se*

illegal and is in conflict with Order I Rule 10(2) of the Code of Civil Procedure, 1908. The said order is liable to be set aside. Hence, Ext.P5 order is set aside. The court below is directed to proceed with the IA and the suit.

O.P.(Civil) is disposed of accordingly.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/29/05

// True Copy //

PA to Judge