

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

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

OP(C).No. 264 of 2015 (O)

E.P. NO.33/2014 IN O.S. NO.517/2012 OF SUB COURT, KARUNAGAPPALLY.
.....

PETITIONER(S):

**SHANAVAS, S/O.ISMAIL KUNJU,
PUTHENPURA VADAKKETHIL, MAVELI,
PANMANA MANAYIL P.O., KARUNAGAPPALLY,
KOLLAM.**

BY ADV. SRI.B.MOHANLAL.

RESPONDENT(S):

**ABDUL MANAF,
S/O.ABDUL LATHEEF, MEENATHATHIL VEEDU,
NETTIYADU MURI, PANMANA VILLAGE,
PANMANA P.O., KARUNAGAPPALLY,
KOLLAM, PIN-691 583.**

BY ADV. SRI.V.PHILIP MATHEW.

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

rs.

APPENDIX

PETITIONER'S EXHIBITS:

- EXT P1: THE TRUE COPY OF EP.NO.33/2014 IN OS.NO.517/2012 FILED BY THE RESPONDENT BEFORE THE SUB COURT, KARUNANAGAPPALLY.
- EXT P2: THE TRUE COPY OF THE AFFIDAVIT DATED 29.05.2014 IN EP.NO.33/2014 IN OS.NO.517/2012 FILED BY THE RESPONDENT BEFORE THE SUB COURT, KARUNANAGAPPALLY.
- EXT P3: THE TRUE COPY OF THE AFFIDAVIT DATED 26.11.2014 FILED BY THE RESPONDENT IN EP.NO.33/2014 IN OS.NO.517/2012 BEFORE THE SUB COURT, KARUNANAGAPPALLY.
- EXT P4: THE TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER AGAINST EXT. P3 IN EP.NO.33/2014 IN OS.NO.517/2012 BEFORE THE SUB COURT, KARUNAGAPPALLY.
- EXT P5: THE TRUE COPY OF THE ARGUMENT NOTES FILED BY THE PETITIONER IN EP.NO.33/2014 IN OS.NO.517/2012 BEFORE THE SUB COURT, KARUNAGAPPALLY.
- EXT P6: THE TRUE COPY OF THE JUDGMENT DATED 19.12.2014 IN EP. NO.33/2014 IN OS.NO.517/2012 OF THE SUB COURT, KARUNAGAPPALLY.

RESPONDENTS' EXHIBITS:

- EXT.R1A COPY OF THE JUDGMENT IN O.S. NO.517/2012 OF THE SUB COURT, KARUNAGAPPALLY.
- EXT.R1B COPY OF THE DISCHARGE SUMMARY DATED 09/05/2009 ISSUED FROM MEDICAL TRUST HOSPITAL, ERNAKULAM.
- EXT.R1C COPY OF THE JUDGMENT DATED 16/12/2013 IN SC. NO.201/2010 OF ASSISTANT SESSIONS COURT, KARUNAGAPPALLY.

//TRUE COPY//

P.S. TO JUDGE

rs.

B. KEMAL PASHA, J.

.....
O.P.(C) No.264 of 2015
.....

Dated this the 2nd day of June, 2015

J U D G M E N T

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The decree under execution was passed on 31.08.2013 by way of damages on account of the injuries caused by the petitioner to the respondent. It seems that the left hand of the decree-holder was amputated at wrist level and another grave injury was caused to his left forearm, whereby all its flexor tendons, median nerve and radial artery were also cut and severed. It seems that his right hand is almost paralysed. The petitioner herein has suffered the decree and has not chosen to file an appeal. The decree is put in execution.

2. Notice under Order XXI Rule 37 was ordered. The petitioner had entered appearance before the court below. The decree-holder was examined as PW1. He has deposed in his evidence that the petitioner has sufficient means to

pay the decree debt. The court below has passed Ext.P6 order, which is presently under challenge.

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

4. The respondent has filed a detailed counter affidavit, which is self speaking. The decree-holder was examined before the court below as PW1. He was subjected to cross examination. It seems that through his evidence, PW1 has proved the means of the petitioner, who is the judgment-debtor. The judgment-debtor has not adduced any evidence. On the contrary, the learned counsel for the petitioner before the court below has chosen to file an argument note before the court below. According to PW1, out of fear, he could not make further enquiries about the petitioner. It has come out in evidence that the petitioner has got slaughtering business and he is a butcher. On going through the evidence and the submissions made by both the counsel, I do not think that the impugned order

requires any interference. The impugned order does not suffer from any illegality, irregularity, impropriety or jurisdictional error and, therefore, the same is not liable to be interfered with.

In the result, this OP(Civil) is dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/02/06

// True Copy //

PA to Judge