

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

OP(C).No. 356 of 2015 (O)

PETITIONER :

**SASI, AGED 51 YEARS,
S/O. SUKUMARAN, CHALIL HOUSE, ANAKKARA.P.O.,
CHAKKUPALLAM. IDUKKI DIST.**

BY ADV. SRI.S.SACHITHANANDA PAI

RESPONDENT :

**MATHEW, AGED 54 YEARS,
S/O. CHACKO, PONNAMBEL HOUSE, ANAKKARA.P.O.,
CHAKKUPALLAM. IDUKKI DIST. PIN-685512.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 09-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

OP(C).No. 356 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: COPY OF THE PLAINT IN OS 296/2011 OF THE MUNSIFF COURT,
KATTAPPANA.

EXT.P2: COPY OF THE APPEAL MEMORANDUM IN CMA 27/14 OF THE SUB
COURT, KATTAPPANA.

EXT.P3: COPY OF THE ORDER DATED 09-12-14 IN EA 33/14 IN EP 3/14 OF
MUNSIFF COURT, KATTAPPANA.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P. BHAVADASAN, J.

O.P.(C). No. 356 of 2015

Dated this the 9th day of February, 2015.

JUDGMENT

In this Original Petition under Article 227 of the Constitution of India, the limited prayer is for a direction to the Sub Court, Kattappana to dispose of C.M.A. 27 of 2014 as expeditiously as possible and till then keep the execution proceedings in abeyance.

2. The petitioner suffered an ex parte decree and his property was brought to sale. He filed a petition before the trial court to set aside the ex parte decree which was dismissed. He carried the matter in appeal which is pending as C.M.A. 27 of 2014.

3. In the meanwhile, the decree holder took out execution and obtained Ext.P3 order whereby the petitioner was directed to deposit Rs. One Lakh before the execution court. The petitioner points out that so long as his petition for setting aside the ex parte decree has not attained

finality, the court below was not justified in directing deposit of Rs.One Lakh especially when his property has been attached.

4. In the light of the order that is proposed to be passed in this Original Petition, notice to the respondent appears to be unnecessary.

This Original Petition is disposed of directing Sub Court, Kattappana to take up C.M.A. 27 of 2014 pending before that court and dispose it of in accordance with law as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment. In the meanwhile, the direction to deposit Rs.One Lakh shall be kept in abeyance.

sb.

P. BHAVADASAN,
JUDGE