

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. 363 of 2015 (O)

E.A.NO.181/2014 IN E.P.252/2012 IN O.S.NO.3/2012
OF THE SUB COURT, MAVELIKKARA

PETITIONER/CLAIM PETITIONER :-

AMMINI, AGED 62 YEARS,
W/O. LATE DASAN,
ULAMAKKAL HOUSE,
KOTTARAVALAVU,
KARUVATTA NORTH MURI,
KARUVATTA VILLAGE,
KARTHIKAPALLY THALUK.

BY ADVS.SRI.RINNY STEPHEN CHAMAPARAMBIL
SMT.ASHA ELIZABETH MATHEW

RESPONDENTS/DECREE HOLDER & JUDGMENT DEBTOR :-

1. BINU J NALPATTANJIL,
S/O. JOSEPH,
NALPATTANAJIL HOUSE,
RAMANKARY P.O.,
RAMANKARY VILLAGE - 690 152.
2. JOSEPH PALYATHAYYIL,
S/O. LARIJOSE, PALYATHAYYIL,
PUNNAPRA MURI,
PARAVOOR VILLAGE,
AMBALAPUZHA TALUK - 690 193.

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

rkj

OP(C).No. 363 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS :-

**EXHIBIT P1 :- TRUE COPY OF THE ORDER DATED 10.11.2011 IN IA NO. 1778/2011
IN OS NO. 289/2011.**

EXHIBIT P2 :- TRUE COPY OF THE EA NO. 181/2014 IN EP NO.251/2012.

**EXHIBIT P3 :- TRUE COPY OF THE CHIEF EXAMINATION AFFIDAVIT FILED BY
THE PETITIONER IN EA NO. 181/2014 IN EP NO. 251/2012.**

**EXHIBIT P4 :- TRUE COPY OF THE CARBON COPY APPLICATION FILED BY THE
PETITIONER ON 04.02.2015.**

RESPONDENT(S)' EXHIBITS :- NIL

//TRUE COPY//

P.A.TO JUDGE

rkj

P.BHAVADASAN, J.

O.P.(C) No. 363 of 2015

Dated this the 9th day of February, 2015

JUDGMENT

The limited prayer in this original petition is for a direction to the Sub Court, Mavelikkara to issue a carbon copy of the order dated 03.02.2015 in E.A.No.181 of 2014 in E.P.No.252 of 2012 in O.S.No.3 of 2012 pending before that Court.

2. The petitioner claimed to be in possession of the plaint schedule property by virtue of an agreement for sale according to which she claims to have been put in possession of the property. Therefore Respondents 1 and 2 manipulated an agreement for sale and on that basis first respondent laid O.S.No.3 of 2012 in which second respondent remained ex-parte. First respondent obtained a decree for specific performance and put it in execution. When delivery was attempted petitioner filed E.A.No.181 of 2014 under Order 21 Rule 97. That petition was dismissed.

3. The petitioner claims that she applied for the

carbon copy on 04.02.2015 itself, but so far she has not been served with a carbon copy thereby disabling her from pursuing further remedies. In the meanwhile, it is pointed out that the property stands posted for delivery. It is pointed out that unless she is given a chance to take up the matter before the appellate forum and, if delivery is effected, she will be put to irreparable loss or injury.

There seems to be considerable force in the above submission. This petition is disposed of directing the Sub Court, Mavelikkara to issue carbon copy of the Order in E.A.No.181 of 2014 in E.P.No.252 of 2012 in O.S.No.3 of 2012 within one week from the date of receipt of a copy of this judgment. The delivery proceedings shall be kept in abeyance for two weeks.

Sd/-

P.BHAVADASAN
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE