

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYAISHTA, 1937

OP(C).No. 410 of 2015 (O)

(FDIA.NO.2135/2003 IN OS.NO.598/2001 OF MUNSIF COURT, KANNUR)

PETITIONER/DEFENDANT/2ND RESPONDENT:

**HASEEB HASSAN.P.P., S/O.HASSANKUNHI,
RESIDING AT HUSNAHAS, SOUTH BAZAR,
KANNUR - 2.**

**BY SRI.M.RAMESH CHANDER,SENIOR ADVOCATE
ADVS. SRI.ANEESH JOSEPH
SMT.DENNIS VARGHESE**

RESPONDENT(S)/PLAINTIFF & 1ST RESPONDENT:

- 1. PUTHANPURAYIL SABIRAKUNHI,
D/O.MOOSAFI HASSAN KUNHI,
RESIDING AT KANNUR II AMSOM, SOUTH BAZAR WARD,
KANNUR DISTRICT - 670 002.**
- 2. PUTHANPURAYIL SAHIDA,
D/O.MOOSAFI HASSAN KUNHI, RESIDING AT ZAIEES,
CHETTIPEEDIKA, P.O.PALLIKUNNU, KANNUR - 670 004.**

**R1 BY ADVS. SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD
ON 11-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

OP(C).No. 410 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: PHOTOSTAT COPY OF THE AFFIDAVIT ALONG WITH THE PETITION
AND ORDER.

EXT.P2: PHOTOSTAT COPY OF THE AFFIDAVIT AND PETITION DATED
07/01/2015.

EXT.P3: PHOTOSTAT COPY OF THE ORDER IN FDIA 2135/2003 IN OS 598/2001
OF THE MUNSIFF COURT, KANNUR DATED 15/01/2015.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

B. KEMAL PASHA, J.

.....
O.P.(C) No.410 of 2015
.....

Dated this the 11th day of June, 2015

J U D G M E N T

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In a suit for partition, a preliminary decree was passed by identifying and declaring shares. When final decree was attempted to be passed, it has come out that an auction had be conducted for sale of the property. By way of exercising preferential right, the petitioner, who is one of the sharers, bid the auction, as the highest bidder. Auction was locked in favour of the petitioner and the petitioner was directed to deposit an amount of ₹1,45,00,000/- on or before 01.01.2015. According to the petitioner, as he could not raise the amount in time, he applied for an extension of the

period through IA No.81/2015 in IA.2135/2003 in OS No.598/2001 of the Munsiff's Court, Kannur. The court below has dismissed the IA.

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

3. The respondents are the sisters of the petitioner. The learned counsel for the respondents has fairly conceded that the parties being siblings, a short extension can be granted to the petitioner to deposit the amount. According to the petitioner, he wants to retain possession of the building as it is his residential building. In such case, he is duty bound to meet the direction. This Court is of the view that a further period of three months from today can be granted to the petitioner to deposit the amount, as a last chance.

In the result, this OP(Civil) is allowed to the above extent and a further period of three months from today is granted to the petitioner, as last chance, to deposit the

amount as ordered. In case of failure to deposit the amount within the said extended period, the auction locked in favour of the petitioner would remain cancelled and fresh auction should be conducted again, without giving right to the petitioner to bid again.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/11/06

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PA to Judge