

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

OP(C).No. 639 of 2015 (O)

OS 42/2012 of SUB COURT, HOSDRUG.

PETITIONER(S):

V.BALAKRISHNAN, AGED 56 YEARS,
S/O.LATE CHOMU, HINDU, AGRICULTURIST,
RESIDING AT VELLAMTHATTA, P.O.RAVANEESWARAM,
CHITHARI VILLAGE, HOSDURG TALUK, KASARAGOD.

BY ADV. SRI.MAHESH V RAMAKRISHNAN

RESPONDENT(S):

THE HOSDURG HOUSING CO-OPERATIVE SOCIETY LTD
NO.FF-16,
REPRESENTED BY ITS SECRETARY, KANHANGAD P.O.,
HOSDURG TALUK, KASARAGOD - 671 315.

BY ADV. SRI.K.R.ARUN KRISHNAN

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP(C).No. 639 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. TRUE COPY OF THE AMENDED PLAINT DATED 30.03.2012
IN OS NO.42 OF 2012 OF THE SUB COURT, HOSDURG.

EXHIBIT P2. TRUE COPY OF THE WRITTEN STATEMENT DATED
09.07.2012 FILED BY THE RESPONDENT HEREIN IN O.S.NO.42 OF 2012.

EXHIBIT P3. TRUE COPY OF THE MEDIATION AGREEMENT DATED
31.05.2014 ENTERED INTO BETWEEN THE PETITIONER AND THE
RESPONDENT BEFORE THE MEDIATOR.

EXHIBIT P4. TRUE COPY OF THE ORDER DATED 23.10.2014 PASSED BY
THE SUB COURT, HOSDURG IN O.S.NO.42 OF 2012.

RESPONDENT(S)' EXHIBITS

P. BHAVADASAN, J.

O.P.(C). No. 639 of 2015

Dated this the 8th day of April, 2015.

JUDGMENT

In an arbitration proceedings, an award was passed against the petitioner and the respondent Society proceeded to execute the award. In execution, the property was brought to sale and a sale certificate was issued. Later on, parties compromised the matter and the entire amount due to the Society as per the award was paid. It is not disputed that all the relevant documents were handed over to the petitioner. However, the sale certificate stood as such and later it created problems for him. The petitioner moved the court below for a declaration that the sale certificate is null and void.

2. Of course, the suit as framed is misconceived and ill-advised. The proper remedy for the petitioner is to seek cancellation of the sale certificate in the light of the

compromise. Going by the nature of the prayer, it is imprudent on the part of the court to deny relief to the petitioner especially when the respondent has no objection in granting the relief sought for by the petitioner.

This Original Petition is allowed, the impugned order is set aside and it is declared that the sale certificate issued shall stand cancelled.

sb.

P. BHAVADASAN,
JUDGE