

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

OP(C).No. 658 of 2015 (O)

I.A. NO.3336/2014 IN OS.NO.805/2012 OF PRINCIPAL SUB COURT, PALAKKAD.

.....

PETITIONER(S):

**SASIKUMAR. T,
S/O.T. CHITHAMBARA THARAKAN, THIRUKKOTTIL HOUSE,
CHUNANGAD POST -679 511, AMBALAPPARA II VILLAGE,
OTTAPALAM, PALAKKAD DISTRICT.**

**BY ADVS.SRI.O.RAMACHANDRAN NAMBIAR,
SRI.GEEN T.MATHEW.**

RESPONDENT(S):

**1. R. SATHEESH, S/O. K.ACHUTHAN NAIR,
PLOT NO.11, CHATHANKULAM GARDENS,
KADUMTHURUTHI, KINASSERY POST-678 701,
PALAKKAD DISTRICT.**

**2. P. ASHRAF, S/O. P.C. UMMER,
HOUSE NO.7, NAKSHATHRA NAGAR,
PIRIVUSALA, CHANDRANAGAR POST-678 007,
PALAKKAD DISTRICT.**

**R2 BY ADVS. SRI.K.NARAYANAN (PARUR),
SRI.DEEPAK JOY.K.**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 03-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

OP(C).No. 658 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS:-

- P1 : COPY OF THE PLAINT IN OS NO.805 OF 2012 BEFORE THE PRINCIPAL SUB COURT, PALAKKAD.**
- P2 : COPY OF THE WRITTEN STATEMENT IN OS NO.805 OF 2012 BEFORE THE PRINCIPAL SUB COURT, PALAKKAD.**
- P3 : COPY OF THE IMPEADING PETITION IA NO.3336 OF 2014 IN O.S.NO.805 OF 2012 BEFORE THE PRINCIPAL SUB COURT, PALAKKAD.**
- P4 : COPY OF THE COUNTER FILED BY THE PETITIONER IN EXT.P3 PETITION.**
- P5 : COPY OF THE EXTRACT OF THE ORDER DTD. 18.02.2015 IN IA NO.3336 OF 2014 IN OS NO.805/2012 BEFORE THE PRINCIPAL SUB COURT, PALAKKAD.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

B. KEMAL PASHA, J.

.....
O.P.(C) No.658 of 2015
.....

Dated this the 3rd day of July, 2015

J U D G M E N T

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Ext.P5 is under challenge. A suit for money was filed by the petitioner against the 1st respondent. An order of conditional attachment was passed under Order XXXVIII Rule 5 CPC as against the property of the 1st respondent. After the order of attachment, the 2nd respondent herein has purchased the property. Thereafter, he has chosen to get himself impleaded in the suit for which, IA No.3336/2014 was filed before the court below. Through a cryptic order, it seems that the court below has simply allowed the IA.

2. The only remedy available to the 2nd respondent is to prefer a claim petition and nothing more. Nothing is going to be served by getting himself impleaded in the suit. Ext.P5 order passed by the court below is liable to be set aside.

In the result, this O.P.(Civil) is allowed and Ext.P5 order is set aside. This judgment will not stand in the way of the 2nd respondent in seeking appropriate relief by filing a claim petition.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/03/07

// True Copy //

PA to Judge