

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

OP(C).No. 892 of 2015 (O)

E.P. NO. 26/2013 IN OS NO. 367/2001 AND EP NO. 25/2013 IN OS NO. 244/2002
OF MUNSIFF COURT, PATHANAMTHITTA

PETITIONER/JUDGMENT DEBTOR/DEFENDANT :

JAYAPRAKASH S.,
AGED 47 YEARS, SON OF SUKUMARAN NAIR
JAYAMOHANAM VEEDU, ELANTHOOR P.O.,
PIN – 689 643, PATHANAMTHITTA.

BY ADVS.SRI.C.P.SAJI
SMT.P.DEEPA MOHAN

RESPONDENT/DECREE HOLDER/PLAINTIFF :

R. ANIL
PAPPADIYIL HOUSE
KEEZHCHERIMEL MURI
CHENGANNUR, CHENGANNUR P.O.,
PIN – 689 121
ALAPPUZHA DISTRICT.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 30-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE EXECUTION PETITION IN EP NO. 26/2013 IN OS NO. 367/2001 FILED BEFORE THE MUNSIFF'S COURT, PATHANAMTHITTA.**
- EXT.P2 COPY OF THE EXECUTION PETITION IN EP NO. 25/2013 IN OS NO. 244/2002 FILED BEFORE THE MUNSIFF'S COURT, PATHANAMTHITTA.**
- EXT.P3 COPY OF THE ORDER SHEET DATED 18.4.2011 IN CC NO. 621/2004 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, CHENGANNUR.**
- EXT.P4 COPY OF THE JUDGMENT IN DATED 31.1.2005 IN CC NO. 621/2004 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, CHENGANNUR.**
- EXT.P5 COPY OF THE OBJECTION DATED 21.11.2013 IN EP NO. 26/2013 IN OS NO. 367/2001 FILED BEFORE THE MUNSIFF'S COURT, PATHANAMTHITTA.**
- EXT.P6 COPY OF THE OBJECTION DATED 21.11.2013 IN EP NO. 25/2013 IN OS NO. 244/2002 FILED BEFORE THE MUNSIFF'S COURT, PATHANAMTHITTA.**
- EXT.P7 COPY OF THE AFFIDAVIT FILED BY THE DECREE HOLDER DATED 22.2.2014 IN EP NO. 26/2013 FILED BY THE RESPONDENT BEFORE THE MUNSIFF'S COURT, PATHANAMTHITTA.**
- EXT.P8 COPY OF THE AFFIDAVIT DATED NIL FILED BY THE PETITIONER IN EP NO. 26/2013 IN OS NO. 367/2001 BEFORE THE MUNSIFF'S COURT, PATHANAMTHITTA.**
- EXT.P9 COPY OF THE AFFIDAVIT DATED NIL FILED BY THE PETITIONER IN EP NO. 25/2013 IN OS NO. 244/2002 BEFORE THE MUNSIFF'S COURT, PATHANAMTHITTA.**
- EXT.P10 COPY OF THE PETITION IN EP NO. 26/2013 IN OS NO. 367/2001 FILED BEFORE THE MUNSIFF'S COURT, PATHANAMTHITTA BY THE PETITIONER.**

(Contd...)

OP(C).No. 892 of 2015 (O)

**EXT.P11 COPY OF THE PETITION IN EP NO. 25/2013 IN OS NO.244/2002 FILED
BEFORE THE MUNSIFF'S COURT, PATHANAMTHITTA BY THE
PETITIONER.**

**EXT.P12 COPY OF HAND WRITTEN PROCEEDINGS IN THE EXHIBIT P1 AND P2
EXECUTION PETITIONS FROM 24.3.2015 TO 26.3.2015.**

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

P.BHAVADASAN, J.

O.P.(C) No. 892 of 2015

Dated this the 30th day of March, 2015

J U D G M E N T

The limited prayer in this original petition is for a direction to the Munsiff Court, Pathanamthitta to issue certified copy of the order dated 26.03.2015 in E.P.No. 26/2013 in O.S.No. 367/2001 and E.P.No. 25/2013 in O.S.No. 244/2002 to enable the petitioner to take such steps as are available to him in law.

2. The petitioner is the judgment debtor against whom execution of the decree was taken out as per Ext.P1 execution petition. It is submitted that since a good portion of the petitioner's salary is under attachment, the decree holder is unable to attach the petitioner's salary. The petitioner however filed two petitions before the court below; one of which was for paying the amount in instalments. On the day on which the case was posted, it was submitted that the court below, without conducting any

enquiry and merely on the basis of the submission that the petitioner has not paid the amount, has issued warrant against the petitioner. The petitioner points out that the issuance of warrant is illegal and it cannot be justified in law as the same was passed without conducting any enquiry.

3. The petitioner also pointed out that he has filed copy application as 260/2015 in E.P.No. 25/2013 and 261/2015 in E.P.No. 26/2013 for getting certified copy of the order. The order was passed on 26.03.2015 and the warrant is to be executed on 31.03.2015. The petitioner points out that there may be a direction to issue a copy of the order as expeditiously as possible, at any rate, within the time limit fixed by this Court and till then, the execution of warrant may be kept in abeyance.

4. After having heard the learned counsel for the petitioner, it is felt that the request made is reasonable.

This petition is disposed of directing the Munsiff Court, Pathanamthitta to issue certified copy of order dated

26.03.2015 in E.P.No. 26/2013 in O.S.No. 367/2001 and E.P.No. 25/2013 in O.S.No. 244/2002 as expeditiously as possible, at any rate, within a period of one week from today. Till the certified copy is issued, the execution of warrant shall be kept in abeyance.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge