

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

OP(C).No. 954 of 2015 (O)

E.P.1/2005 OF IVTH ADDITIONAL DISTRICT COURT, PATHANAMTHITTA.

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**PETITIONER/JUDGMENT DEBTOR IN E.P.1/2005 OF IVTH ADDITIONAL
DISTRICT COURT, PATHANAMTHITTA. :**

**K.V. RAJAN, AGED 53 YEARS,
KUZHIVELIL HOUSE, AVENUE ROAD,
THRISSUR-5, MANAGING DIRECTOR,
CARIBBEAN GRANITE AND MARBLE LIMITED,
NO.188, SOUTHERN MAIN ROAD, MARABELLA,
TRINIDAD.**

BY ADV. SRI.G.KRISHNAKUMAR

**RESPONDENT/DECREE HOLDER E.P.1/2005 OF IVTH ADDITIONAL
DISTRICT COURT, PATHANAMTHITTA.:**

**K.K. JOHN, MANAGING DIRECTOR,
KILIYANAL CONSTRUCTIONS PVT. LTD,
KILIYANAL, MEKKADAMPU P.O.,
MOOVATTUPUZHA - 683 502.**

**BY SRI.K.JAJU BABU (SENIOR ADVOCATE)
ADV. SMT.M.U.VIJAYALAKSHMI**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 09-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1. A TRUE COPY OF THE EXECUTION PETITION EP 97/2013 FILED BY THE RESPONDENT BEFORE THE DISTRICT COURT, PATHANAMTHITTA AND DISPOSED BY THE IVTH ADDITIONAL DISTRICT COURT, PATHANAMTHITTA.
- EXT.P2. A TRUE COPY OF THE INTERIM ORDER PASSED BY THE DISTRICT COURT, ERNAKULAM IN A.O.P 457/214 PENDING BEFORE THAT COURT.
- EXT.P3. A TRUE COPY OF THE EXECUTION APPLICATION EA 164/2014 FILED BY THE PETITIONER BEFORE THE IVTH ADDITIONAL DISTRICT COURT, PATHANAMTHITTA.
- EXT.P4. A TRUE COPY OF THE INTERIM APPLICATION EA 165/2014 FILED BY THE PETITIONER BEFORE THE IVTH ADDITIONAL DISTRICT COURT, PATHANAMTHITTA.
- EXT.P5. A TRUE COPY OF THE ARGUMENT NOTES FILED BY THE PETITIONER BEFORE THE IVTH ADDITIONAL DISTRICT COURT IN EP 97/2013 AND EA 164/2014 AND EA 165/2014. PATHANAMTHITTA.
- EXT.P6. A TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN OP(C) NO.2557/2014.(O).
- EXT.P7. A TRUE COPY OF THE ORDER PASSED BY THE IVTH ADDITIONAL DISTRICT COURT DATED 30/12/2014 DISMISSING THE EXT.P1 EXECUTION PETITION.
- EXT.P8. A TRUE COPY OF THE EXECUTION PETITION EP 1/2015 PENDING BEFORE DISTRICT COURT, PATHANAMTHITTA.
- EXT.P9. A TRUE COPY OF THE INTERIM APPLICATION EA 10/2015 FILED BY THE RESPONDENT FOR ATTACHING THE PROPERTY OF THE PETITIONER.
- EXT.P10. A TRUE COPY OF THE ATTACHEMNT ORDER DATED 10/2/2015 PASSED BY THE DISTRICT COURT, PATHANAMTHITTA ALLOWING THE EXT.P9 E.A.
- EXT.P11. A TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER IN THE EXECUTION PETITION 1/2015 AND PENDING BEFORE THE IVTH ADDITIONAL DISTRICT COURT, PATHANAMTHITTA.
- EXT.P12. A TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER IN EA 10/2015 AND PENDING BEFORE THE IVTH ADDITIONAL DISTRICT COURT, PATHANAMTHITTA.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

B. KEMAL PASHA, J.

.....
O.P.(C) No.954 of 2015

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Dated this the 9th day of July, 2015

J U D G M E N T

This is a case wherein an appeal under Section 34 of the Arbitration and Conciliation Act, 1996 is pending as against an arbitral award. The learned Senior counsel for the decree holder submits that it was by mistake Ext.P8 was filed, and on which there happened to be Ext.P10 order. Both the learned counsel agree that Ext.P8 is not maintainable so long as the appeal is pending and therefore, Ext.P10 order can be set aside.

In the result, this Original Petition stands allowed and

Ext.P10 order stands set aside. Ext.P8 EP stands dismissed. The court below shall issue an order thereby lifting the attachment ordered through Ext.P10.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge