

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

OP(C).No. 1468 of 2015 (O)

E.P.NO.53/2013 IN O.S.NO.643/77 OF PRINCIPAL MUNISFF'S COURT, CHERTHALA.

PETITIONER(S):

1. **MATHEW @ MATHAN, AGED 61,
S/O.LATE CHACKO, MATHANGAPARAMBIL,
KOTHAVARA P.O, VAIKOM FROM KOLLEKATTU HOUSE,
PANAVALLY MURI, PANAVALLY VILLAGE, CHERTHALA.**
2. **AUGUSTINE, AGED 56, S/O.LATE CHACKO,
KOLLEKATTU HOUSE, PANAVALLY P.O,
PANAVALLY VILLAGE, CHERTHALA.**
3. **ROSAMMA THOMAS, AGED 54,
D/O.LATE CHACKO, KANIYAMPARAMBU HOUSE,
KURUPPANKULANGARA P.O, FROM KOLLEKATTU HOUSE,
PANAVALLY PO, PANAVALLY VILLAGE, CHERTHALA.**
4. **JACOB, AGED 48, S/O.LATE CHACKO, KOLLEKATTU HOUSE,
MANNANTHURUTHUKARA, VARAPPUZHA P.O,
FROM KOLLEKATTU HOUSE, PANAVALLY P.O,
PANAVALLY VILLAGE, CHERTHALA.**
5. **PAUL, AGED 45, S/O.LATE CHACKO,
KOLLEKATTU HOUSE, PANAVALLY P.O,
PANAVALLY VILLAGE, CHERTHALA.**

BY ADV. SRI.C.G.RAJ KUMAR

RESPONDENT:

**ELIYAMMA, AGED 53, W/O.CHACKO,
PULLANCHERIL HOUSE, PANAVALLY.P.O.,
PANAVALLY MURI, PANAVALLY VILLAGE,
CHERTHALA - 688 536.**

BY ADV. SRI.J.OM PRAKASH

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 20-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

OP(C).No. 1468 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1: A TRUE COPY OF THE EP.NO.53/2013 DATED 14.03.2013 IN OS.NO.643/77 OF THE MUNISFF COURT, CHERTHALA.
- P2: A TRUE COPY OF THE DECREE IN OS.NO.643/77 DATED 31.01.1987 OF THE MUNISFF'S COURT, CHERTHALA.
- P3: A TRUE COPY OF THE DECREE IN AS.NO.44/1981 DATED 25.06.1983 OF THE SUB COURT, ALAPPUZHA.
- P4: A TRUE COPY OF THE JUDGMENT IN SA.NO.262/1984 DATED 06.04.1987 OF THIS HON'BLE COURT.
- P5: A TRUE COPY OF THE OBJECTION DATED 01.06.2013 IN EP.NO.53/2013 IN OS.NO.643/77 OF THE MUNISFF'S COURT, CHERTHALA.
- P6: A TRUE COPY OF THE INTERIM INJUCTION PASSED BY THE COURT BELOW IN IA.NO.497/2014 DATED 01.02.2014.
- P7: A TRUE COPY OF THE INTERIM INJUNCTION PASSED BY THE COURT BELOW IN IA.NO.497/2014 DATED 01.02.2014.
- P8: A TRUE COPY OF THE ORDER IN EP.NO.53/2013 DATED 27.11.2014 IN OS.NO.643/77 OF THE PRINCIPAL MUNISFF COURT CHERTHALA.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

B. KEMAL PASHA, J.

.....
O.P.(C) No.1468 of 2015

.....
Dated this the 20th day of July, 2015

J U D G M E N T

Heard the learned counsel for the petitioners and the learned counsel for the respondent.

2. In the execution, the judgment debtors, who are the petitioners herein, have filed a detailed objection challenging the maintainability of the execution petition as well as the executability of the decree. It seems that the court below has passed a one sentence order without going into the merits of the contentions raised by the petitioners. When a detailed counter was filed, the court below ought to have addressed the issues involved and have dealt with the matter on merits. Therefore, Ext.P8 order passed by the

court below is set aside and the matter is remitted to the court below for fresh disposal, in accordance with law.

The Original Petition is disposed of as above.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge