

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

OP(C).No. 1616 of 2015 (O)

OS 209/2010 OF SUB COURT, IRINJALAKUDA

PETITIONER(S):

**PRAKASH BABU, S/O.GOPALAN, AGED 49 YEARS
PADIYATH HOUSE, MADAVANA DESOM, ERIYAD VILLAGE,
KODUNGALLORE TALUK, THRISSUR DISTRICT.**

**BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.N.L.BITTO**

RESPONDENT(S):

**PURUSHOTHAMAN,
AGED 64, BUSINESS, S/O.MAMAN,
PARAPARAMBIL HOUSE, KAIPAMANGALAM DESOM,
KAIPAMANGALAM VILLAGE, KODUNGALLORE TALUK,
THRISSUR DISTRICT - 680 001.**

BY ADV. SRI.T.N.MANOJ

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 12-10-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - A TRUE COPY OF THE COMPROMISE PETITION FILED BEFORE THE LOK ADALATH OF SUB COURT IRINJALAKUDA DATED 2.12.2011
- P2 - A TRUE COPY OF THE AWARD PASSED IN LOK ADALATH OF THE SUB COURT IRINJALAKUDA IN OS.209/2010 DATED 2.12.2011
- P3 - A TRUE COPY OF THE STATEMENT FILED BY THE RESPONDENT IN EP.116/2012, IN OS.209/2010 DATED 24.5.2014
- P4 - A TRUE COPY OF EA.749/14 TO RAISE THE ATTACHEMNT FILE BY THE PETITONER IN EP.116/12 IN OS.209/10 BEFORE THE SUB COURT IRINJALAKUDA DATED 13/8/14
- P5 - A TRUE COPY OF THE APPLICATION TO RELEASE AMOUNT OF RS.1,30,000/- BY THE DECREE HOLDER IN EP.116/12 IN OS.209/10 BEFORE THE SUB COURT IRINJALAKUDA DATED 20/5/15

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K. ABRAHAM MATHEW, J.

O.P.(C)No. 1616 of 2015

Dated this the 12th day of October, 2015

J U D G M E N T

Petitioner was the defendant in O.S.No.209 of 2010. Ext.P2 award was passed by the Lok Adalath to which the matter was referred. The issue that comes before this court now relates to the interpretation of the award.

2. Heard.

3. The award passed by the Lok Adalath is as follows:-

"Towards full and final settlement defendant agreed to pay Rs.3,15,000/- (Rupees three lakhs fifteen thousand only) to the plaintiff. Out of the said amount Rs.1,50,000/- (Rupees one lakh fifty thousand only) will be paid within 15.1.2012 and balance within 4 months from that day. Failing which plaintiff is at liberty to realise the suit amount of Rs.4,50,000/- (Rupees four lakhs fifty thousand only) with interest and cost".

The learned counsel submits that the intention of the parties was that the petitioner would be liable to pay Rs.4,50,000/- (Rupees four lakhs fifty thousand only) only if he failed to make the initial payment of Rs.1,50,000/-

(Rupees one lakh fifty thousand only). It is settled position that to interpret the decree the court can look into the judgment. So I have no doubt that I can refer to the compromise petition filed before the Lok Adalath which is Ext.P1 in this O.P. In the compromise petition signed by both parties, in no uncertain terms, it is stated that the parties have settled the dispute and agreed that it is sufficient for the petitioner to pay Rs.3,15,000/- (Rupees three lakhs fifteen thousand only). It is also stated that the petitioner should pay Rs.1,50,000/- (Rupees one lakh fifty thousand only) before 15.01.2012 and the balance amount within four months from the date of the compromise petition. It is further stated that if the petitioner fails to make the initial payment of Rs.1,50,000/- (Rupees one lakh fifty thousand only) the respondent/plaintiff is entitled to realise the entire amount claimed in the plaint with interest at 6%per annum. The amount claimed in the plaint Rs.4,50,000/- (Rupees four lakhs fifty thousand only). But the award provides that the respondent is entitled to realise the plaint amount of Rs.4,50,000/- (Rupees four lakhs fifty thousand only) if

the petitioner fails to make the initial payment of Rs.1,50,000/- (Rupees one lakh fifty thousand only) . It is only to be taken as to mean that the respondent is entitled to claim the whole plaint amount only if the petitioner fails to make the initial payment of Rs.1,50,000/- (Rupees one lakh fifty thousand only). That is the only possible interpretation.

In the result, this O.P is allowed. It is made clear that the respondent is entitled to claim the whole amount of Rs.4,50,000/- (Rupees four lakhs fifty thousand only) only if the petitioner has failed to make the payment of Rs.1,50,000/- (Rupees one lakh fifty thousand only) he was bound to pay before 15.01.2012.

sd/-

K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge

