

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

OP(C).No. 1766 of 2015 (O)

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AGAINST THE ORDER IN E.A.NO.92/2015 IN E.P.159/2015 ON THE FILE OF
MUNSIFF COURT, TALIPARAMBA
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PETITIONER(S):

**M/S.MUTHOOT VEHICLE AND ASSETS FINANCE LTD.
REGISTERED OFFICE : MUTHOOT CHAMBERS, KURIAN TOWERS
BANERJI ROAD, ERNAKULAM
REPRESENTED BY ITS POWER OF ATTORNEY
HOLDER/ASST.MANAGER MADHU E.EDAVATH HOUSE
KARAYAD P.O., MEPPAYUR. VIA. KOZHIKODE DISTRICT.**

**BY ADVS.SRI.C.S.MANILAL
SRI.S.NIDHEESH**

RESPONDENT(S):

- 1. FAIZAL PUTHIYA SRAMBATH, AGED 35 YEARS
S/O.UMMER HAJI, UMABIA MANZIL, PUSHPAGIRI
THALIPARAMBU P.O., THALIPARAMBU DESOM AMSOM
KANNUR - 670 141.**
- 2. THAJUDEEN
S/O.POKKAR, KELOTHUPURAYIL HOUSE
MUYIAM P.O.THALIPARAMBA
KANNUR DISTRICT. PIN - 670 142.**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 15-09-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT.P-1: TRUE COPY OF THE HYPOTHECATION DATED 21.8.2009 AGREEMENT

EXHIBIT.P-2: TRUE COPY OF THE CLAIM PETITION BEFORE THE ARBITRATOR

EXHIBIT.P-3: TRUE COPY OF THE COPY OF THE AWARD DATED 14.2.2012 IN ARBITRATION REFERENCE NO.805 OF 2011.

EXHIBIT.P-4: TRUE COPY OF THE REGISTRATION PARTICULARS OF THE VEHICLE

EXHIBIT.P-5: TRUE COPY OF THE CLAIM PETITION IN E.A 92/2015 IN E.P 159/13 IN O.S. 346/2011 BEFORE THE MUNSIFF COURT, THALIPARAMBA

EXHIBIT.P-6: TRUE COPY OF THE ORDER DATED 24.3.2015 IN E.A 92/2015 IN E.P 159/13 IN O.S 346/2011 OF THE MUNSIFF COURT, THALIPARAMBA.

RESPONDENT(S)' EXHIBITS **NIL**

R.AV

//TRUE COPY//

PA TO JUDGE

K.ABRAHAM MATHEW, J

O.P.C.NO.1766 OF 2015

Dated this the 15th day of September, 2015

J U D G M E N T

The first respondent has obtained a money decree against the second respondent in O.S.No.346 of 2011 on the file of Munsiff, Taliparamba. The former filed EP.No.159 of 2013 for realisation of the decree and got a vehicle attached. The petitioner in this O.P filed EA.No.92 of 2015 claiming right over the vehicle. The learned Munsiff allowed his application, EA.No.92 of 2015 and ordered release of the vehicle to the petitioner in this O.P on condition that he shall execute a bond for Rs.5,00,000/- (Rupees Five lakhs only) with two solvent sureties each for the like sum. The direction to furnish security is challenged in this O.P.

2. Heard the learned counsel for the petitioner. Though notice was served on the first respondent there is no appearance for him.

3. I do not find anything wrong in the direction given to the petitioner to execute a bond. The learned

counsel submits that the value of the vehicle is only Rs.3,10,000/- (Rupees Three lakhs ten thousand only) which is seen from Ext.P6 order itself and the direction to execute a bond for Rs.5,00,000/- (Rupees Five lakhs only) is not reasonable. I think to this extent the order cannot be justified. A direction to execute a bond for Rs.3,20,000/- (Rupees Three lakhs twenty thousand only) is sufficient.

In the result, this O.P is disposed of. The bond amount is fixed at Rs.3,25,000/- (Rupees Three lakhs twenty five thousand only) instead of Rs.5,00,000/- (Rupees Five lakhs only) as directed in Ext.P6 order.

sd/-

K. ABRAHAM MATHEW
JUDGE

R.AV

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PA to Judge