

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

OP(C).No. 2349 of 2015 (O)

EP.NO.145/2010 IN OS.NO.262/2007 OF SUB COURT, ERNAKULAM.
.....

PETITIONER/JUDGMENT DEBTOR:

**K.K. VIJAYAN, AGED 72 YEARS,
S/O.KRISHNAN, RAJESH BHAVAN,
RAYIMMEL DESOM, CHENGAMANAD,
ALUVA, NOW RESIDING AT KATTUNGAL HOUSE,
MAMANGALAM, EDAPPALLY, ERNAKULAM.**

**BY.DR.K.P.SATHEESAN (SENIOR ADVOCATE)
ADVS SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR
SRI.S.VIBHEESHANAN
SRI.K.SUDHINKUMAR**

RESPONDENT/DECREE HOLDER:

**M.J. THOMAS, AGED 59 YEARS,
S/O.LATE JOSEPH, ST.VINCENT CROSS ROAD,
ERNAKULAM - 682 018.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 07-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

OP(C).No. 2349 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1. TRUE COPY OF THE JUDGMENT DATED 30/9/2009 IN OS NO.262/2007 OF THE SUB COURT, NORTH PARAVOOR.
- EXT.P2. TRUE COPY OF THE AFFIDAVIT FILED BY THE RESPONDENT IN EA NO.697/2014 IN EP NO.145/2010 IN OS NO.262/2007 OF THE SUB COURT, ERNAKULAM.
- EXT.P3. TRUE COPY OF THE ORDER DATED 28/1/2015 IN EA NO.697/2014 IN EP NO.145/2010 IN OS NO.262/2007 OF THE SUB COURT, ERNAKULAM.
- EXT.P4. TRUE COPY OF THE ORDER DATED 22/8/2015 IN EP NO.145/2010 IN OS NO.262/2007 OF THE SUB COURT, ERNAKULAM.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. ABRAHAM MATHEW, J.

O.P.(C)No. 2349 of 2015

Dated this the 7th day of October, 2015

J U D G M E N T

Petitioner is the JD in EP.No.145 of 2010 in O.S.No.262 of 2007. His property has been attached for realisation of the decree amount. That apart he has been ordered to be detained in civil jail for non payment of the amount. The prayer in this O.P is to set aside the order of detention on the ground that his property has already been attached and that is sufficient to discharge the debt.

2. Heard.

3. The petitioner is a 72 year old man. But that alone cannot be a ground to allow this O.P. He took part in the enquiry conducted to prove his means. The executing court has found that he has the means to pay the debt. He has been ordered to be detained in civil jail. There is no justification at all to interfere with the order Under 227 of the Constitution for the sole reason that his property has already been attached.

In the result, this O.P is dismissed. The petitioner

undertakes to pay within 10 days 50% of the amount claimed by the decree holder and the balance amount within three months. If he fails to make the first payment or the second payment, the execute shall enforce the order of detention.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge