

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

OP(C).No. 2439 of 2015 (O)

EP 265/2015 of DISTRICT COURT, THIRUVANANDAPURAM

PETITIONER :

**A.SATHYAN, AGED 40 YEARS, S/O. ASHOKAN,
SOUPARNIKA, T.C. 16/1582, THOROTTUKONAM,
THURUVAIKKAL P.O., THIRUVANANDAPURAM - 695032.**

BY ADV. SRI.S.VIDYASAGAR

RESPONDENTS :

**MAGMA SHRACHI FINANCE LIMITED.,
(A PUBLIC LIMITED COMPANY UNDER THE COMPANY ACTS 1956)
REGISTERED OFFICE AT MAGMA HOUSE, 24, PARK STREET,
KOLKATA 700016, REPRESENTED BY THE MANAGER, MAGMA HOUSE,
24, PARK STREET, KOLKATA - 700016.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 09-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE EXECUTION PETITION 265/2015 BEFORE THE DISTRICT COURT, THIRUVANANDAPURAM.
- P2: COPY OF THE STATEMENT OF MAGMA FINCORP STATING THAT THE PETITIONER HAS ALREADY PAID A SUBSTANTIAL AMOUNT OF RS 5.07,210/- TOWARDS THE INSTALLMENT AS 28/12/2013.
- P3: COPY OF TREATMENT CERTIFICATE, CERTIFIED BY DR. ALEX K. ITTYAVIRAH, SHOWING THAT THE PETITIONER WAS LAID UP WITH CRITICAL ILLNESS OF LIVER CIRRHOSIS.
- P4: COPY OF THE SAID LETTER DT 10/11/2014 ISSUED BY THE RESPONDENT DECREE HOLDER INITIATING THE PETITIONER FOR A SETTLEMENT OF RS. 2,00,000/- OF THE WHOLE CLAIM.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

K. ABRAHAM MATHEW, J.

O.P.(C).No.2439 OF 2015

Dated this the 9th day of October, 2015

J U D G M E N T

Petitioner is the judgment debtor in Ext.P1 execution petition. His case is that the amount claimed in the execution petition is not due to the decree holder.

2. Heard.

3. The learned counsel submits that the petitioner has filed an objection to the notice issued under Order 21 Rule 37 C.P.C. If he has raised a contention with regard to the amount due to the decree holder, it is necessary for the executing court to take a decision on it. This court cannot determine the amount in the petition filed under Article 227 of the Constitution.

In the result, this O.P is disposed of with a direction to the petitioner to agitate the matter in the executing court which shall take into account observations mentioned above.

sd/-

K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge