

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 14TH DAY OF DECEMBER 2015/23RD AGRAHAYANA, 1937

OP(C).No. 2722 of 2015 (O)

(IA.NO.5467/2014 IN OS.NO. 281/2014 OF IST ADDL.SUB COURT, THRISSUR)

PETITIONER :

**P.M.KADEEJA,
W/O.M.K.ASAF ALI, HAFSA MAHAL,
POST ENKAKAD, PIN -680 589,
THRISSUR DISTRICT**

**BY ADVS.SRI.C.CHANDRASEKHARAN
SRI.P.S.HARIHARAN**

RESPONDENT(S):

**1. DIVINE MEDICAL CENTRE LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,
WADAKANCHERY P.O, PIN -680 582, THRISSUR DISTRICT.**

**2. BASHEER,SON OF LATE MAMU,
NALAKATH HOUSE, POOVATHUR POST,
THRISSUR DISTRICT, PIN- 680 508**

**R1 BY ADVS. SRI.THIYYANNOOR RAMAKRISHNAN
SRI.ARUN KUMAR.P
SMT.AMBIKA RADHAKRISHNAN**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 14-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

OP(C).No. 2722 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE PLAINT IN OS.NO.281/2014 DATED 01.10.2014 OF SUB COURT, THRISSUR
- P2: TRUE COPY OF THE IA.5467/2014 IN OS.NO.281/2014 OF THE SUB COURT, THRISSUR
- P3: TRUE COPY OF THE COUNTER IN IA.NO.5467/2014 IN OS.NO.281/2014 OF SUB COURT, THRISSUR
- P4: TRUE COPY OF THE ORDER IN IA.NO.5467/2014 IN OS.NO.281/2014 OF THE SUB COURT, THRISSUR DATED 08.01.2015

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K. ABRAHAM MATHEW, J.

O.P.(C)No.2722 of 2015

Dated this the 14th day of December, 2015

J U D G M E N T

Petitioner is the plaintiff in OS.281 of 2014 of Sub Court, Thrissur. The suit is for realisation of Rs.38,00,000/- (Rupees thirty eight lakhs only) from the respondents/defendants. The petitioner alleges that she and the second respondent were owners of certain articles, which they sold to the first respondent limited company. The company issued two cheques towards the price in favour of the second respondent. The company has not paid the amount. As the petitioner was a co-owner of the property sold to the first respondent, she is entitled to realise the amount from the first respondent company. Along with the plaint she filed an application for attachment of the properties of the first respondent. The learned Sub Judge has dismissed it. This is challenged in this O.P.

2. Heard.

3. The suit is based on two cheques. The

petitioner is not the payee. The payee is the second respondent, who is the second defendant in this case. It is very strange that such a suit has been instituted. Even if it is assumed that the petitioner had title to the properties sold to the first respondent-company, prima facie, she has no cause of action against the first respondent-company.

4. It is pertinent to note that the petitioner's husband was the managing director of the first respondent-company during the relevant period. The tripartite agreement relied on by the petitioner was entered into between the petitioner, the first respondent-company on whose behalf her husband has signed it, and one Shyju who is not a party to this proceedings. The petitioner has produced in the suit an acknowledgement of debt allegedly issued by the first respondent-company. It is signed by her husband. Thus all the documents relied on by the petitioner are executed by her husband. These facts indicate that all is not well with the petitioner's case. A company petition is pending before this court. In these circumstances, I have no doubt that the learned Sub Judge has rightly dismissed the attachment application filed by the petitioner. No

interference is called for.

In the result, this OP is dismissed.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge