

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

OP(C).No. 2760 of 2015 (O)

PETITIONER(S)/PETITIONERS NO. 2 TO 4:

1. C.DEEPAK AGED 37 YEARS
S/O.LATE BALAN, PADICHALIL HOUSE, MOWANCHERY
IRIVERI AMSOM, KANAYANNUR DESOM, KANNUR
2. ARUN AGED 34 YEARS
S/O.LATE BALAN, PADICHALIL HOUSE, MOWANCHERY
IRIVERI AMSOM, KANAYANNUR DESOM, KANNUR
3. AMRITHA AGED 39 YEARS
D/O.LATE BALAN, ADVOCATE, PADICHALIL HOUSE
MOWANCHERY, IRIVERI AMSOM, KANAYANNUR DESOM
KANNUR

BY ADVS.SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH

RESPONDENT(S)/RESPONDENTS:

1. SREE GOKULAM CHITS FINANCE CO.(P) LTD.
KANNUR BRANCH, REPRESENTED BY ITS MANAGING DIRECTOR
SRI. AM.GOPALAN, THROUGH P.A.HOLDER K. RAJAN
ASST. AREA MANAGER
SREE GOKULAM CHITS & FINANCE CO. (P) LTD.
KANNUR BRANCH, SHEREEN BUILDING, 275
TV ROAD, KANNUR 670001
2. REMESHAN C
S/O.LATE BALAN, PADICHALIL HOUSE, P.O.MOWANCHERY
KANNAUR, PIN 670613
3. ANIL KUMAR C
S/O.LATE BALAN, PADICHALIL HOUSE, P.O.MOWANCHERY
KANNAUR, PIN 670613
4. MANJUSHA
D/O.LATE BALAN, PADICHALIL HOUSE, P.O.MOWANCHERY
KANNAUR, PIN 670613
5. SUDHARMA
D/O.LATE BALAN, PADICHALIL HOUSE, P.O.MOWANCHERY
KANNAUR, PIN 670613
6. AJAYAN C
S/O.LATE BALAN, PADICHALIL HOUSE, P.O.MOWANCHERY
KANNAUR, PIN 670613

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
03-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 2760 of 2015 (O)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1: TRUE COPY OF THE APPLICATION EA.NO.149/2015 DATED
25.09.2015 FILED BY THE PETITIONER IN EP.NO.34/2015 IN
OS.NO.141/2006 ON THE FILE OF THE SUB ORDINATTE JUDGE,
KANNUR

EXT.P2: TRUE COPY OF THE COUNTER DATED 03.10.2015 EA.NO.149/2015
DATED 25.09.2015 FILED BY THE 1ST RESPONDENT IN
EP.NO.34/2015 IN OS.NO.141/2006 ON THE FILE OF THE
SUBORDINATE JUDGE, KANNUR

EXT.P3: TRUE COPY OF THE ORDER DATED 05.10.2015 IN EA.NO.149/2015
DATED 25.09.2015 IN EP.NO.34/2015 IN OS.NO.141/2006 ON
THE FILE OF THE SUBORDINATE JUDGE, KANNUR

RESPONDENT(S) ' EXHIBITS NIL

//TRUE COPY//

P.A TO JUDGE

vdv

K. ABRAHAM MATHEW, J.

O.P.(C)No.2760 of 2015

Dated this the 3rd day of December, 2015

J U D G M E N T

Petitioner is the judgment debtor in OS.1431 of 2006. The decree is for payment of money. The respondent/decreed holder has filed EP.34 of 2015. The decree has been challenged in AS.67 of 2008. The petitioner filed an application to stay the execution of the proceedings. The learned District Judge granted stay subject to the condition that the petitioner should furnish security within a particular period. The security furnished by him was not in order. So it was not accepted. It is submitted that he filed an application to condone the delay in furnishing security but that has so far not been disposed of by the appellate court. Meanwhile, he filed EA.149 of 2015 in the executing court to stay the execution of the decree. The learned Sub Judge has dismissed it. This is challenged.

2. Heard.

3. The learned Sub Judge was right in dismissing the application for stay because stay had already been

granted by the appellate court. The learned counsel further submits that the executing court is proceeding with the sale of the property even though the petitioner was not served with a notice under Order 21 Rule 66 CPC. If that is true, he may file an application before the executing court within seven days from today to furnish him copies of the application for sale and the connected documents and the court shall give him an opportunity to file objection.

In the result this OP is disposed of as follows:-

The petitioners may file an application before the executing court to direct the respondent/decreed holder to furnish him a copy of the draft proclamation within seven days from today. The executing court shall give him an opportunity to file an objection. It is made clear that if he has already been given a copy of the draft proclamation this order will not have any force.

sd/-

K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge