

IN THE HIGH COURT OF KERALAAT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

OP(C).No. 2951 of 2015 (O)

PETITIONER/JUDGMENT DEBTOR:

LEELAMONY, AGED 50 YEARS
D/O. SARASAMMA, MANGALATHU PUTHEN VEEDU
KARIKKAMITTAM MURI, VETTIKKAVALA VILLAGE
KOTTARAKKARA TALUK, KOLLAM.

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL

RESPONDENT/DECREE HOLDER:

RAMANUJAN PILLAI, AGED 40 YEARS,
S/O. CHELLAPPAN PILLAI, ALUMVILAKIZHAKKATHIL
KOTTARAKKARA TALUK, KOLLAM DISTRICT-691506.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 04-12-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF THE ORDER IN EA NO.268/2013 IN E.P.NO.66/2009 IN OS NO.133/2000 ON THE FILE OF THE SUB COURT, KOTTARAKKARA.

EXHIBIT P2: TRUE COPY OF THE PETITION FILED IN EA NO.91/2014 TO APPOINT A COMMISSION TO MEASURE OUT AND DE-MARCAT E TWO CENTS OF PROPERTY.

EXHIBIT P3: TRUE COPY OF THE PETITION FILED IN E.A.NO.92/2014 SEEKING PERMISSION TO SELL TWO CENTS OF PROPERTY IN AUCTION.

EXHIBIT P4: TRUE COPY OF THE COMMON ORDER PASSED BY THE LEARNED SUB JUDGE DISMISSING EXT.P2 AND P3 APPLICATIONS IN E.A.NO.91/2014 AND 92/2014.

EXHIBIT P5: TRUE COPY OF THE JUDGMENT IN OPC NO.2097/2014 DATED 12.8.2015.

EXHIBIT P6: TRUE COPY OF THE ORDER PASSED BY THE SUB COURT, KOTTARAKKARA DATED 29.10.2015 IN EP NO.66/2009 IN OS NO.133/2000.

EXHIBIT P7: TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER IN EA NO.326/2015 IN E.P.NO.66/2009 IN OS NO.133/2000.

RESPONDENT'S EXHIBITS : NIL

/TRUE COPY/

P.S.TO JUDGE

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K.ABRAHAM MATHEW J.

O.P.(C)No.2951 of 2015

Dated this the 4th day of December, 2015

JUDGMENT

Petitioner is the judgment debtor in O.S.No.133 of 2000 of Sub Court, Kottarakkara. The decree is for payment of money. A 5 cent plot belonging to the petitioner was sought to be sold in execution of the decree. She claimed that she is a domestic servant and entitled to the protection under Section 60(1)(c) of the Code of Civil Procedure . This contention was upheld by the executing court. But in O.P(C) No.2097 of 2014 this court rejected the contention and directed that 'the said property and the building' should be sold. Thereafter, the executing court has proclaimed the entire extent of the property for sale. This is questioned in this Original Petition.

2.Heard.

3. Learned counsel for the petitioner submits that the decree holder only wants to sell 2 cents of property, which will fetch about Rs.3,00,000/-,which is much more than the decree debt of about Rs.1,90,000/-. If the decree holder proposes to sell only 2 cents, the court cannot compel him to sell 5 cents. But if there is no bidder for the 2 cents the decree holder is at liberty to ask the court to sell the entire extent of 5 cents. It is also pertinent to note that with the judgment of this court in O.P.(C)No.2097 of 2014 the earlier order E.A.Nos.91 of

2014 and 92 of 2014 stand revived. This direction is not applicable if the request of the decree holder is not to sell 2 cents, but 5 cents.

With the above observation this Original Petition is closed.

Sd/-
K.ABRAHAM MATHEW
JUDGE

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/True copy/

P.S.to Judge