

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 7TH DAY OF DECEMBER 2015/16TH AGRAHAYANA, 1937

OP(C).No. 2982 of 2015 (O)

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(E.P.NO.34/2015 IN O.S.NO.262/2010 OF ADDITIONAL MUNSIF COURT-II,
NEYATTINKARA)
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PETITIONER/JUDGMENT DEBTOR/PLAINTIFF/COUNTER CLAIM DEFENDANT :

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RETNAKARAN, AGED 78 YEARS,
S/O.VELAYUDHA PANICKER, CHOTHI NIVAS, KANAVILA,
OORUTTAMABALAM, MARANALLOR VILLAGE,
THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.RAJESH P NAIR

RESPONDENT(S)/DECREE HOLDERS/DEFENDANTS/COUNTER CLAIM PLAINTIFF :

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- 1. SADASIVAN, AGED 75 YEARS, S/O.VELAYUDHA PANICKER,
S.N.MANDIRAM, OORUTTAMBALAM,
MARANALLOOR VILLAGE. PIN-695 010**
 - 2. ANILKUMAR,
S/O.VARIJAKSHA PANICKER, AJI BHAVAN, MANGALATHUKONAM,
KATTACHALKUZH P.O., BALARAMAPURAM. PIN-645 010**
 - 3. SINI @ SEENA,
W/O.ANILKUMAR, AJI BHAVAN, MANGALATHUKONAM,
KATTACHALKUZH P.O., BALARAMAPURAM. PIN-695 010**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. TRUE PHOTOCOPY OF THE PLAINT IN OS.NO.262/2010 DATED 10/3/2010 ON THE FILES OF THE COURT OF ADDL. MUNSIFF-II, NEYYATTINKARA.
- EXT.P2. TRUE PHOTOCOPY OF THE WRITTEN STATEMENT ALONG WITH THE COUNTER CLAIM IN OS.NO.262/2010 DATED 12/7/2010.
- EXT.P3. TRUE PHOTOCOPY OF THE WRITTEN STATEMENT AGAINST THE COUNTER CLAIM IN OS.NO. 262/2010 DATED 22/11/2010.
- EXT.P4. TRUE PHOTOCOPY OF THE JUDGMENT DATED 3/3/2014 OF THE COURT OF THE ADDITIONAL MUNSIFF- II, NEYYATTINKARA
- EXT.P5. TRUE PHOTOCOPY OF THE JUDGMENT AND DECREE IN OS.262/2010 (COUNTER CLAIM) PASSED BY THE COURT OF ADDITIONAL MUNSIFF-II, NEYYATTINKARA, DATED 20/3/2014.
- EXT.P6. TRUE PHOTOCOPY OF THE RESTORATION PETITION IA.NO.2410/2014 IN OS.NO. 262/2010 DATED 2/4/2014.
- EXT.P7. TRUE PHOTOCOPY OF THE EXECUTION PETITION AS EP.NO.34/2015 BEFORE THE COURT OF ADDITIONAL MUNSIFF-II, NEYYATTINKARA DATED 11/2/2015.
- EXT.P8. TRUE PHOTOCOPY OF THE OBJECTION TO THE EXECUTION PETITION DATED 26/10/2015 IN EP NO.34/2015 IN OS 262/2010 ON THE FILES OF THE COURT OF ADDL. MUNSIFF-II, NEYYATTINKARA.
- EXT.P9. TRUE PHOTOCOPY OF THE AS.NO.11/2015 FILED BEFORE THE SUB COURT, NEYYATTINKARA DATED 5/10/2015.
- EXT.P10. TRUE PHOTOCOPY OF THE MEMORANDUM OF APPEAL IN AS 110/2013 ALONG WITH THE PETITION STAY DATED 5/10/2015.
- EXT.P11. TRUE PHOTOCOPY OF THE OBJECTION DATED 26/10/2015 FILED BY THE PETITIONER/JUDGMENT DEBTOR IN THE ABOVE SAID EXECUTION APPEAL.
- EXT.P12. TRUE PHOTOCOPY OF THE ORDER DATED 17/11/2015 IN EA NO.475/2015 IN EP.NO.34/2015 IN OS.NO.262/2010 ON THE FILES OF THE COURT OF ADDL. MUNSIFF-II, NEYYATTINKARA.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

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P.S.TO JUDGE

K.ABRAHAM MATHEW J.

O.P.(C)No.2982 of 2015

Dated this the 7th day of December, 2015

JUDGMENT

The petitioner was the defendant in O.S.No.262 of 2010 of Additional Munsiff Court-II, Neyyattinkara. An ex parte decree for fixation of boundary has been passed. The respondent/decreed holder has filed an execution petition. Meanwhile, along with a petition to condone the delay the petitioner has filed an appeal. In the execution petition the commissioner appointed by the court reported that the petitioner/judgment debtor obstructed execution of the decree. So the respondent/decreed holder filed E.A.No.475 of 2015 for police aid. By Ext P12 order of the learned Munsiff has allowed it. This is sought to be set aside in this Original Petition.

2. Heard.

3. So long as there is a valid decree against the petitioner the respondent/decreed holder has every right to execute it. The former cannot obstruct execution of the decree. His remedy is to get appropriate orders from the appellate court. I do not find any reason to interfere with the impugned order.

In the result, this Original Petition is dismissed.

Sd/-
K.ABRAHAM MATHEW
JUDGE

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/True copy/

P.S.to Judge