

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

OP(C).No. 3022 of 2015 (O)

EP.NO.105/08 IN OS 17/2004 OF SUB COURT, OTTAPPALAM.
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PETITIONER(S):

1. JANARDHANAN NAIR, S/O. KESAVAN NAIR,
KUNNUMPURATH HOUSE, MARAYAMANGALAM,
NELLAYA, OTTAPALAM TALUK.
2. M.K. SANTHOSHKUMAR, S/O. MADHAVAN,
PATTARUMADATHIL HOUSE, KUMARAMPUTHUR,
MANNARKAD TALUK.
3. M.K. SINDHU, D/O. LATE M.K. MADAVI,
PATTARUMADATHIL HOUSE,
KUMARAMPUTHUR, MANNARKAD TALUK.
4. M.K. SIBI PRIYADARSHINI, S/O. LATE M.K. MADAVI,
PATTARUMADATHIL HOUSE, KUMARAMPUTHUR,
MANNARKAD TALUK.

**BY ADVS.SRI.I.DINESH MENON
SRI.L.RAJESH NARAYAN**

RESPONDENT:

**MALAPPURAM ASSET FINANCE LTD,
MANNATH BUILDING, MAIN ROAD, SHORNUR,
REPRESENTED BY MANAGING DIRECTOR,
MRS.JYOTHI PRASANNAN, W/O.P.D. PRASANNAN,
PUZHAKKADAVIL HOUSE, CIVIL LINES ROAD, THRISSUR,
(FORMERLY L.F.C HIRE PURCHASE COMPANY LIMITED
SHORNUR)**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 10-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

OP(C).No. 3022 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1- TRUE COPY OF THE LETTER ISSUED BY THE L.F.C HIRE PURCHASE COMPANY, THRISSUR.**
- P2- TRUE COPY OF THE DEMAND DRAFT DATED 25/02/2010.**
- P3- TRUE COPY OF THE COMMON ORDER PASSED BY THE SUBORDINATE JUDGE, OTTAPALAM IN E.P. 103/2008 IN O.S 8/2004, E.P. 104/2008 IN O.S 9/2004 AND E.P 105/2008 IN O.S 17/2015.**
- P4- TRUE COPY OF THE SALE NOTICE DATED 16/11/2015.**
- P5- TRUE COPY OF THE OBJECTION FILED IN E.P 105/2008 IN O.S 17/2004 ON THE FILES OF THE SUB COURT, OTTAPALAM DATED 01/12/2015.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. ABRAHAM MATHEW, J.

O.P.(C)No. 3022 of 2015

Dated this the 10th day of December, 2015

J U D G M E N T

Petitioners are the judgment debtors in OS 17 of 2004 of Sub Court, Ottapalam. The respondent-decree holder has filed EP 105 of 2008 for execution of the decree. The property of the petitioners is sought to be sold in execution of the decree. The sale has been proclaimed. The complaint of the petitioners is that the court has not considered Ext.P5 objection filed to the notice issued under Order 21 Rule 66 CPC.

2. Heard.

3. The sale was proclaimed to be held on 03.12.2015. The petitioners filed an objection to the notice referred to above on 02.12.2015. The prayer is to direct the executing court to consider it. The judgment debtor who failed to file objection to the notice issued under Order 21 Rule 66 CPC at proper time cannot maintain a petition under Article 227 of the Constitution to direct the executing court to consider the objection filed by him on the previous day of the sale. It will be an abuse of the

powers of this court to interfere in it. If there is any illegality in the sale, the remedy of the petitioners is to file an application under Order 21 Rule 90 CPC.

In the result, this OP is dismissed.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge