

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. 3024 of 2015 (O)

EP.NO.19/2014 IN OS 204/2012 OF MUNSIFF COURT, CHENGANNUR.
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PETITIONER:

**PRIYA, AGED 29, D/O. BALARAMAN,
KUTTITIL THEKKETHIL, THONACKADU,
PULIYOOR, CHENGANNUR TALUK,
ALAPPUZHA DISTRICT.**

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENT(S):

- 1. ANITHA, W/O. VIJAYAN, ANJALI SADANAM,
THONACKADU, PULIYOOR, CHENGANNUR TALUK,
ALAPPUZHA DISTRICT - 689 510.**
- 2. MANOJ, S/O. BALARAMAN, KUTTITIL THEKKETHIL,
THONACKADU, PULIYOOR, CHENGANNUR TALUK,
ALAPPUZHA DISTRICT- 689 510.**
- 3. PREETHI, D/O. BALARAMAN, KUTTITIL THEKKETHIL,
THONACKADU, PULIYOOR, CHENGANNUR TALUK,
ALAPPUZHA DISTRICT - 689 510.**

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

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1- COPY OF THE PLAINT IN O.S 204/2012.
- P2- COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONER'S FATHER IN O.S 204/2012.
- P3- COPY OF THE COMPROMISE PETITION DATED 25/10/2013 ALLEGEDLY EXECUTED BETWEEN THE IST RESPONDENT AND PETITIONER'S FATHER.
- P4- COPY OF THE DECREE DATED 25/11/2013 PASSED BY THE MUNSIF COURT, CHENGANNUR IN O.S 204/2012.
- P5- COPY OF THE DEATH CERTIFICATE DATED 26/12/2013.
- P6- COPY OF THE PLAINT IN O.S 38/2014.
- P7- COPY OF THE E.P. 19/2014 FILED BY THE PETITIONER BEFORE THE MUNSIF COURT, CHENGANNUR.
- P8- COPY OF THE OBJECTION FILED BY THE PETITIONER IN E.P 19/2014 IN O.S 204/2012.
- P9- COPY OF THE E.A 111/15 FILED BY THE PETITIONER IN O.S 38/2014.
- P10- COPY OF THE OBJECTIN FILED BY THE IST RERSPONDENT.
- P11- COPY OF THE ORDER DATED 27/11/2015 PASSED BY THE MUNSIF COURT, CHENGANNUR IN E.A 111/2015 IN E.P 19/2014.
- P12- COPY OF THE E.A 122/15 IN E.P 19/2014 FILED BY THE IST RESPONDENT.

RESPONDENT(S)' EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. ABRAHAM MATHEW, J.

O.P.(C)No. 3024 of 2015

Dated this the 10th day of December, 2015

J U D G M E N T

Petitioner is the legal heir of judgment debtor in OS.204 of 2012. The defence in execution proceedings is that the compromise decree sought to be executed is not valid. They filed an application to stay the execution of the decree. The executing court has dismissed it. Its correctness is questioned in this OP.

2. Heard.

3. The executing court cannot go behind the decree. The validity of the decree cannot be challenged in the execution proceedings. In fact, the petitioner in this OP has filed OS 38 of 2014 challenging the validity of the decree and for some other reliefs. If the petitioner is so advised, she may get an order of injunction in OS.38 of 2014. The executing court rightly dismissed the application for stay though the grounds stated in the impugned order cannot be approved of. The application is not maintainable.

In the result, this OP is dismissed.

Learned counsel for the petitioner submits that she may be given one weeks' time to move the trial court in OS 38 of 2014 to obtain an injunction. The executing court shall not deliver the property for one week. This does not mean that if an application is filed in OS 38 of 2014 for injunction the trial court shall grant it.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge