IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

OP(C).No. 3107 of 2015 (O)

E.P. NO. 765/2013 IN ARC NO. 1753/2011 MUNSIFF COURT, MANJERI

PETITIONER :

GEORGE PUTHANPURAKKAL, AGED 49 YEARS,
S/O. MATHEW, PUTHANPURAKKAL HOUSE,
BHOODHANAM COLONY P.O., POTHUKAL VILLAGE,
MALAPPURAM DISTRICT.

BY ADVS.SRI.T.K.AJITH KUMAR
SRI.P.VINODKUMAR

RESPONDENT :

POTHUKAL SERVICE CO-OPERATIVE BANK LTD.,
POTHUKAL, BOODHANAM COLONY P.O.,
MALAPPURAM DISTRICT PIN - 679334.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 18-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

OP(C).No. 3107 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY OF THE PETITION IN E.P. 765/2013 IN ARC 1753/2011 ON THE FILE OF MUNSIFF COURT, MANJERI.

P2: COPY OF THE COUNTER STATEMENT FILED BY THE PETITIONER.

P3: COPY OF THE SALE NOTICE IN EP 765/2013 I ARC 1753/2011 ON THE FILE OF THE MUNSIFF COURT, MANJERI.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

K.ABRAHAM MATHEW J.

O.P.(C)No. 3107 of 2015

Dated this the 18th day of December, 2015

JUDGMENT

Petitioner is the judgment debtor in E.P.No.765 of 2013 on the file of Munsiff, Manjeri. In execution of the award for payment of money obtained in its favour the respondent bank has put up his property for sale. The prayer in this Original Petition is to "defer the sale of the petition schedule property and to permit the petitioner to pay the amount in instalments".

2. Heard.

3. After the passing of the decree the court has no discretion to allow the judgment debtor to pay the debt in instalments without the consent of the decree holder. There is no allegation that the executing court has committed any illegality in the procedure. So the prayer cannot be granted.

4. If there is no irregularity or illegality in the procedure adopted by the court below, it can be a ground to challenge the sale under Order 21 Rule 90 of the Code of Civil Procedure.

In the result, this Original Petition is dismissed.

Sd/-
K.ABRAHAM MATHEW
JUDGE

cms

/True copy/ P.S.to Judge