

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

OP(C).No. 3152 of 2015 (O)

AGAINST THE ORDER/JUDGMENT IN EP 197/2014 IN ARBITRATION CASE (M)
NO.57/2009 OF ADDL.DISTRICT JUDGE, KASARAGOD

PETITIONER/JUDGMENT DEBTOR:

HAMZA, AGED 52 YEARS,
S/O.ABDULLA, 8/528(12/541),
BEEDHI HOUSE, MANJESHWAR,
KASARAGOD DISTRICT.

BY ADV. SMT.R.PADMAKUMARI

RESPONDENTS/DECREE HOLDER & 2ND JUDGMENT DEBTOR:

1. MANAPPURAM GENERAL FINANCE & LEASING LTD.,
MANAPPURAM HOUSE, VALAPPAD (P.O),
REP. BY ITS SENIOR MANAGER,
LEGAL HIRE PURCHASE AND HYPOTHECATION MR.JAGANNIDHI.N
- 2.ABDUL RAHIMAN,
S/O.MOIDEEN KUNHI,
8/242B(11/237),
GUDDEKKERI HOUSE, HOSEBETTA,
MANJESHWARAM, KASARAGOD.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 22-12-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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K.ABRAHAM MATHEW J.

O.P.(C)No.3152 of 2015

Dated this the 22nd day of December, 2015

JUDGMENT

Petitioner is the judgment debtor in E.P.No.197 of 2014 on the file of Additional district judge-III, Kasaragod. By the impugned order the learned district judge has ordered issuance of arrest warrant against him under Order 21 Rule 37 of the Code of Civil Procedure. This is challenged.

2. Heard the learned counsel for the petitioner.

3. The prayer in this Original Petition is to set aside Ext P3 order. The order specifically mentions that the arrest warrant is issued under Order 21 Rule 37 of the Code of Civil Procedure. Arrest warrant under that provision is issued only to secure the presence of the judgment debtor for enquiry regarding his means. The petitioner is free to surrender before the court so that the court may conduct an enquiry under Order 21 Rule 40 of the Code of Civil Procedure. It is also pertinent to note that Ext P3 order does not show that the court has found that the petitioner-judgment debtor has means to pay the debt and he is liable to be detained in civil jail.

In the result, this Original Petition is disposed of with the above observation.

Sd/-

K.ABRAHAM MATHEW
JUDGE

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/True copy/

P.S.to Judge