

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

OP(C).No. 2270 of 2014 (O)

EP NO. 275/2008 IN OS 231/2003 OF PRINCIPAL SUB COURT, IRINGALAKUDA

PETITIONER :

**JOHNSON, AGED 44 YEARS,
S/O.JOSEPH, ELANJIKKAL HOUSE, NADAVARAMBA,
VELOOKKARA VILLAGE, MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.**

**BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.N.L.BITTO**

RESPONDENT :

**DHARMAPRIYA ENTERPRISES (P) LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR PRABHAKARAN,
IRINJALAKUDA DESOM, IRINJALAKUDA VILLAGE,
MUKUNDAPURAM TALUK-680001.**

BY ADV. SRI.T.N.MANOJ

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 05-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

OP(C).No. 2270 of 2014 (O)

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY OF THE EP.275/2008 IN O.S. 231 OF 2003 BEFORE THE PRINCIPAL SUB COURT IRINJALAKUDA DT 24/10/2008.

P2: COPY OF RESTORATION PETITION OF EA 877/2014 , IN EP. 275/2008 BEFORE THE PRINCIPAL SUB COURT IRINJALAKUDA.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.BHAVADASAN, J.

O.P.(C) No. 2270 of 2014

Dated this the 05th day of February, 2015

J U D G M E N T

The only controversy involved in this original petition is regarding the consideration of the petition to set aside the sale which was dismissed for default and against which a restoration application is kept pending.

2. The learned counsel appearing for the respondent pointed out that he has no objection in restoring the application for setting aside the sale and that may be directed to be considered on merits.

3. The learned counsel appearing for the petitioner then pointed out that he is willing to pay the decree debt and wipe off the amount.

4. In the light of the fact that the petition for setting aside the sale is pending, it is for the petitioner to make the above request before the court below and if such a prayer is raised, the court below will consider the same in accordance

with law and sympathetically.

For the above reason, this petition is allowed and the petition to set aside the sale is restored and the court below is directed to consider the dispose of the petition as expeditiously as possible, at any rate, within in a period of one month from the date of receipt of a copy of this judgment. The question whether the decree holder is willing to accept the amount if paid by the judgment debtor is to be considered by that court.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge