

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

OP(Cr1.).No. 43 of 2015 (Q)

IN ORDER NO.2839/14/B2 DATED 1.11.2014

PETITIONER/PETITIONER:

P.K.THAMPY, AGED 72 YEARS,
S/O.LATE IYPE CHANDAPILLAI, PULIPRA,
NADUVILEPARAMBIL, KADAMANKULAM, KALLOOPPARA,
MALLAPPALLY TALUK, PATHANAMTHITTA.

BY ADV. SRI.R.SANTHOSH BABU

RESPONDENTS/RESPONDENTS:

1. SUB DIVISIONAL MAGISTRATE/
REVENUE DIVISIONAL OFFICER,
OFFICE OF REVENUE DIVISIONAL OFFICER, THIRUVALLA,
PIN - 689 101.
2. SARAMMA,
PULIPRA NADUVILEPARAMBIL, KADAMANKULAM,
KALLOOPPARA,
MALLAPPALLY, PATHANAMTHITTA DISTRICT.
PIN - 689 585.

BY GOVERNMENT PLEADER SMT.P.MAYA

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(Cr1.).No. 43 of 2015 (Q)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: COPY OF THE TAX RECEIPT DATED 23/6/2014 ISSUED BY VILLAGE OFFICER, KALLOPPARA.

EXT.P2: COPY OF THE PROVISIONAL ORDER DATED 1/9/2014 ISSUED BY 1ST RESPONDENT

EXT.P3: COPY OF ORDER NO.2839/14/B2 DATED 1/11/2014 ISSUED BY 1ST RESPONDENT

EXT.P4: COPY OF REPRESENTATION DATED 5/1/2015 FILED BY PETITIONER BEFORE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

O.P(Crl) No.43 of 2015

Dated this the 27th day of February, 2015

J U D G M E N T

The petitioner herein seeks a direction under Article 227 of the Constitution of India to the Executive Magistrate, Thiruvalla to enforce the order passed by the Executive Magistrate under Section 133 of the Code of Criminal Procedure. Ext.P4 produced herein is a copy of the application filed by the petitioner before the Executive Magistrate for execution of the order. His grievance is that the Executive Magistrate has not taken any action to enforce the order passed by him under Section 133 of the Code of Criminal Procedure. A report was called for from the Executive Magistrate. There is a report from the Executive Magistrate that Ext.P4 application for execution was received by him only on 7.2.2015. This original petition was filed by the petitioner in this Court on 3.2.2015. There is something to be doubted. Anyway, it is also reported that after the order passed under Section 133 of the Code of Criminal Procedure, the respondents herein entered appearance and filed an objection. It is not known whether the Executive Magistrate is proceeding to re-open the matter for enquiry

under Section 137 of the Code of Criminal Procedure in view of the objection now made by the respondent. Anyway, the execution petition stands posted by the Executive Magistrate for further steps. On the objection raised by the respondent, the Executive Magistrate issued notice to both the parties, but the parties did not appear. The matter stands posted on 20.3.2015 for consideration of the objection filed by the respondent. Anyway, the Executive Magistrate will have to take a proper decision according to law on the objection filed by the respondent and also on the execution application filed by the petitioner. If the objection is accepted and necessary enquiry is ordered under Section 137 of the Code of Criminal Procedure, by re-opening the procedure, Ext.P4 execution petition cannot proceed. Anyway, let appropriate decision be taken by the Executive Magistrate. In the present circumstances, I find no reason or ground to issue a direction as sought by the petitioner.

With the above observations and directions this Original Petition is closed. However, the Executive Magistrate is directed to close the enquiry and to take decision, at the earliest.

**P.UBAID
JUDGE**

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