

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

OP(C).No. 2956 of 2014 (O)

**(I.A.NO.3050/2014 IN OS.NO. 727/2014 OF PRINCIPAL MUNSIF COURT-II,
KOZHIKODE)**

PETITIONER :

**THANKAMMA GEORGE, W/O.GEORGE, AGED 62 YEARS,
ULLATTIL HOUSE, THIRUVAMBADI AMSOM DESOM,
THAMARASSERY, KOZHIKODE DISTRICT.**

**BY ADVS.SRI.K.P.SUDHEER
SRI.YJAFAR KHAN**

RESPONDENT :

**K.P.AZEEZ,S/O.KUNHOYI,
KALATHINGAL HOUSE, MANIPURAM P.O.,
KOZHIKODE DISTRICT, PIN -673 572.**

**BY ADVS. SRI.K.M.FIROZ
SMT.M.SHAJNA
SRI.S.KANNAN**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

OP(C).No. 2956 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 COPY OF PLAINT IN OS NO.727/2014 DATED 4/7/2014 FILED BY THE RESPONDENT HEREIN BEFORE THE PRINCIPAL MUNSIFF'S COURT-11,KOZHIKODE
- EXHIBIT P2 COPY OF THE SHOW CAUSE NOTICE DATED 7/7/2014 ISSUED TO THE PETITIONER UNDER ORDER 38 RULE 5 OF CODE OF CIVIL PROCEDURE BY PRINCIPAL MUNSIFF'S COURT-II,KOZHIKODE
- EXHIBIT P3 COPY OF IA NO.3050/2014 DATED 22/7/2014 FILED BY THE PETITIONER IN OS NO.727/2014 ON THE FILE OF THE PRINCIPAL MUNSIFF'S COURT-11,KOZHIKODE
- EXHIBIT P4 COPY OF FIXED DEPOSIT RECEIPT FOR RS.5 LAKHS ISSUED BY SOUTH MALABAR GRAMIN BANK
- EXHIBIT P5 COPY OF COUNTER STATEMENT DATED 26/7/2014 FILED BY THE RESPONDENT IN EXHIBIT P3
- EXHIBIT P6 COPY OF ORDER DATED 22/9/2014 IN IA NO.3050/2014 INB OS 727/2014 PASSED BY PRINCIPAL MUNSIFF'S COURT-11,KOZHIKODE

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.BHAVADASAN, J.

Original Petition (Civil) No.2956 OF 2014

Dated this the 16th day of January, 2015.

J U D G M E N T

In this case, due to a technical view taken by the court below, matter has become complicated.

2. Shorn of unnecessary details, the petitioner was asked to show cause as to why she should not furnish security for lifting the attachment. The petitioner submitted a fixed deposit receipt which was sufficient to cover the amount for which security was directed to be furnished by her.

3. The court below refused to accept the fixed deposit receipt submitted by the petitioner finding that it stood in the name of the petitioner and taking a view that it should have been either in the name of other party or in the name of the court.

4. It is trite that it need not be so. All that is required is that lien on fixed deposit receipt be shown in favour of the court and that should be intimated to the Bank.

This original petition is disposed of directing the court below to accept the fixed deposit receipt furnished by the petitioner as security as ordered by the court below and after showing lien on fixed deposit receipt, Bank shall be intimated about the same.

Sd/-

**P.BHAVADASAN
JUDGE**

smp