

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

OP(C).No. 2998 of 2014 (O)

**EA/NO.233/2014 IN EP.NO.13/2013 IN OS 126/2011 OF SUB COURT, KASARAGOD
DTD.18.12.2014**
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PETITIONER(S):

- 1. KASARGOD GRAMEENA SUPER MARKET LIMITED,
REPRESENTED BY ITS MANAGING DIRECTOR,
AJITH KUMAR K.G., AGED 41 YEARS, S/O.GANANADHAN MASTER,
VRINDVAN COMPLEX, CHERKLA, CHENGALA VILLAGE AND POST ,
KASARGODE TALUK AND DISTRICT**
- 2. AJITH KUMAR K.G., AGED 41 YEARS,
S/O.GANANADHAN MASTER, MANAGING DIRECTOR,
KASARAGODE GRAMEENA SUPER MARKET LIMITED,
RESIDING AT "PAVITHRAM", PADUPPU, KARIVADAKKAM VILLAGE,
PO SANKARAMPADI, KASARAGODE TALUK AND DISTRICT.**

**BY ADVS.SRI.K.P.RAMACHANDRAN
SMT.S.ANJUSHA**

RESPONDENT(S):

**SATHYANARAYANA BHATT, AGED 54 YEARS,
S/O.THIRUMALESWARA BHATT, RESIDING AT 'MANDARA HOUSE',
BANDADKA VILLAGE, P.O. MANIMOOLA,
KASARGODE TALUK AND DISTRICT, PIN - 671 541.**

**BY ADVS. SRI.T.SETHUMADHAVAN (SR.)
SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR
SMT.VANDANA MENON**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 03-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

OP(C).No. 2998 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE PLAINT DATED 13/12/2011 IN OS NO. 126/2011 ON THE FILES OF THE HONOURABLE SUBORDINATE JUDGES COURT, KASARAGOD.

EXHIBIT P2: TRUE COPY OF THE WRITTEN STATEMENT DATED 5/6/2012 IN OS NO.126/2011 ON THE FILES OF THE HONOURABLE SUBORDINATE JUDGES COURT, KASARGODE.

EXHIBIT P3: TRUE PHOTOSTAT COPY OF THE JUDGMENT DATED 15/1/2013 IN OS NO.126/2011 OF THE HONOURABLE SUBORDINATE JUDGES COURT, KASARGODE.

EXHIBIT P4: TRUE PHOTOSTAT COPY OF THE EXECUTION PETITION NO.13/2013 DATED 28/2/2013 ON THE FILES OF THE HONOURABLE SUBORDINATE JUDGES COURT, KASARAGODE.

EXHIBIT P5: TRUE PHOTOSTAT COPY OF THE OBJECTION DATED 2/12/2013 SUBMITTED BY THE 2ND PETITIONER IN EP NO.13/2013 ON THE FILES OF THE HONOURABLE SUBORDINATE JUDGES COURT, KASARGODE.

EXHIBIT P6: TRUE PHOTOSTAT COPY OF THE APPLICATION DATED 25/9/2013 FILED UNDER ORDER XXI RULE 66 C.P.C ALONG WITH ITS AFFIDAVIT AND DRAFT SALE PROCLAMATION.

EXHIBIT P7: TRUE PHOTOSTAT COPY OF THE SALE PROCLAMATION, SCHEDULED ON 18/12/2014 IN EA NO.2232/2014 IN EP NO.13/2013 IN OS NO.126/2011 OF THE HONOURABLE SUBORDINATE JUDGES COURT, KASARGODE.

PETITIONER(S)' ANNEXURES:

ANNEXURE I: TRUE PHOTOSTAT COPY OF THE ORDER DTD.18.12.2014 IN OP(C) NO. 2998/2014.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

O.P.(C)No.2998 of 2014

Dated this the 3rd day of September, 2015.

J U D G M E N T

The original petition is filed by the judgment debtor in a Money decree, challenging the proclamation of sale.

2. The petitioners' main challenge in the original petition is on the ground that the proclamation of sale can be settled only after taking evidence. Therefore, the court below erred in fixing the reserved price in the sale proclamation.

3. The learned counsel for the respondent points out to the counter filed by the judgment debtor. In the counter, the judgment debtor had denied the right over the property.

4. By invoking Article 227 of the Constitution of India, this Court need not sit up on a decision of court below in fixing the reserved price and proceeding with the same, especially when the petitioner disowned any right

over the property. There is no merit in this original petition and accordingly the same is dismissed.

Sd/-
A.MUHAMED MUSTAQUE,
Judge.

ami/

//True copy//

P.A.to Judge