

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

OP (FC).No. 276 of 2015 (R)

AGAINST THE ORDER/JUDGMENT IN EP 67/2009 of FAMILY COURT,
KOTTARAKKARA.

PETITIONER(S):

ABDUL RASHEED RAVUTHER, AGED 53 YEARS,
S/O.EBRAHIM KUNJU, MALEKUNNATHU VEEDU, KURAKKODU,
KOLLAYIL P.O., MADATHARA, CHITHARA VILLAGE,
KOLLAM.

BY ADVS.SRI.R.KRISHNA RAJ
SRI.BIJITH S.KHAN

RESPONDENT(S):

1. SAHEERATHU BEEVI,
D/O.S.PALI AKBAR, REMLA MANZIL, THALAKKONAM VILLAGE,
NOW RESIDING AT SHAMEER MANZIL, PUTHENCODE P.O.,
KOLIACODE VILLAGE, NEDUMANGADU TALUK-695 001.
2. ADHIL A.R.,
S/O.ABDUL RASHEED RAVUTHER, SHAMEER MANZIL,
PUTHENCODE P.O., KOLIYACODE VILLAGE,
NEDUMANGADU TALUK-695 001.

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 25-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

:2:

OP (FC).No. 276 of 2015 (R)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT. P1 : TRUE COPY OF THE JUDGMENT OF THE FAMILY COURT
DT .8-8-2008.
- EXT. P2 : TRUE COPY OF THE DECREE OF THE FAMILY COURT DT.8-8-2008.
- EXT. P3 : TRUE COPY OF THE EP DT.29-9-2009.
- EXT. P4 : TRUE COPY OF THE SALE PROCLAMATION DT.7-2-2012.
- EXT. P5 : TRUE COPY OF THE SALE ORDER DT.3-5-2012.
- EXT. P6 : TRUE COPY OF THE PETITION FILED BY THE RESPONDENT
DT.25-9-2009.
- EXT. P7 : TRUE COPY OF THE DELIVERY WARRANT DT.29-6-2013.
- EXT. P8 : TRUE COPY OF THE AGREEMENT ENTERED INTO BETWEEN THE
PETITIONER AND THE RESPONDENTS DT.7-2-2009.
- EXT. P9 : TRUE COPY OF THE DEATH CERTIFICATE OF THE BROTHER OF
THE PETITIONER DT.14-1-2013.
- EXT. P10 : TRUE COPY OF THE RELEVANT PAGES OF THE PASSPORT.

RESPONDENT(S)' EXHIBITS

----- : **NIL**

//True Copy//

P.A.To Judge

SS

**C.K. ABDUL REHIM &
K. RAMAKRISHNAN, JJ.**

O.P.(F.C.) No. 276 of 2015

Dated this the 25th day of June, 2015

JUDGMENT

C.K. Abdul Rehim, J

The petitioner is approaching this court invoking supervisory jurisdiction vested under Article 227 of the Constitution of India.

2. Relief sought for in this writ petition is to set aside the auction sale conducted in E.P.No.67/2009 by the Family Court, Kottarakkara, and to re-deliver the property sold. The Execution Petition was filed before the Family Court with respect to Ext.P1 Judgment and Ext.P2 decree obtained by the respondents herein against the petitioners. The decree is dated 08.08.2008. It is evident that the execution petition was filed by the respondents as early as in September 2009. The sale of the property was conducted on 03.05.2012. After confirmation of the sale, the property was delivered through the court proceedings on 29.06.2013.

The respondents herein have bid the property in auction and the property stands delivered to them, as early as in the year 2013.

3. Contention of the petitioner is that, there was an agreement arrived between the respondents and the petitioner with respect to the cases pending before the Family Court and the petitioner had paid an amount of ₹25,000/-. But it is conceded that the agreement could not be complied in full, since the petitioner went back to Saudi Arabia and could not come back for a long period due to the particular circumstances prevailed at his place of job.

4. It is stated that, the petitioner came back during May, 2014 and then only he came to know that the entire property scheduled in the execution petition was sold and delivered to the respondents. It is contended that the property actually worth ₹70,00,000/-, whereas the sale was conducted only for an amount of ₹10,10,000/-

5. While considering averments contained in the writ petition, we take note of the fact that the execution petition was closed by the Family Court after confirmation

of the sale and after effecting delivery of the property. There is no proceedings pending before the Family Court at present. There is no materials available before this court to arrive at any conclusion that the Family Court had committed any error of jurisdiction in conducting the sale, or in confirming the sale and delivering the property. Hence there is no circumstances warranting invocation of the supervisory jurisdiction vested on this court. However, it will be left open to the petitioner to seek appropriate remedy if any available under law, for setting aside the sale.

Under the above mentioned circumstances the writ petition is dismissed subject to observations contained herein above.

Sd/-

C.K. Abdul Rehim, Judge

Sd/-

K. Ramakrishnan, Judge

// True Copy//

P.A. To Judge