

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE NO. 1818 OF 2011  
IN  
EXECUTION APPLICATION NO. 1098 OF 2011  
IN  
KERALA O.S. 18 OF 1991**

|                                            |                                     |
|--------------------------------------------|-------------------------------------|
| M/s. Rehabilitation Plantations Ltd.       | .. Decree Holder/Pltff.             |
| Vs.                                        |                                     |
| 1. M/s. M.B. Freight Movers (Private) Ltd. |                                     |
| & Ors.                                     | .. Judgement Debtors/<br>Defendants |

Mr.Rony P. Joseph for applicant/claimant.

Ms.Kalyani G. Parmar for respondent no.8.

**CORAM : K.R.SHRIRAM, J.**  
**DATE : 8<sup>TH</sup> JUNE, 2016**

**P.C.**

1 The notice has been issued to respondent no.8 under Order XXI, Rule 22 of Code of Civil Procedure, 1908. Respondent No.8 has filed an affidavit in reply stating that respondent no.8 was not even a party to the original proceedings in which the plaintiff had obtained a decree and respondent no.8 has been added only at the stage of execution.

2 The counsel for the applicant stated that the plaintiff's application to add respondent no.8 was granted pursuant to an order dated 5<sup>th</sup> April 2010,

copy whereof has been annexed to the affidavit in rejoinder. It appears that the plaintiff had filed an application before the Subordinate Judge, Kottarakara, Kerala on 4<sup>th</sup> April 2008 to implead respondent no.8. It is the case of the plaintiff that the Directors of defendant no.1 and respondent no.8 are common.

3 The counsel appearing for respondent no.8 points out from the affidavit in reply that they have nothing to do with defendant no.1. It was also stated that they have never served a copy of the application to implead them as a respondent.

4 In the rejoinder, it is stated that the notice of impleading respondent no.8 was served upon respondent no.8 but there is no mention as to how it was served. Even the order passed on 26<sup>th</sup> October 2010 to implead respondent no.8 as judgment debtor also does not mention how it was served. Therefore, it is quite clear that respondent no.8 has not been served the application properly to be joined as respondent no.8 to the Execution Application.

5 In the circumstances, this is a fit case to discharge the notice.

The notice stands discharged.

**(K.R. SHRIRAM, J.)**