

Predheep vs Joshi

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Court : Kerala

Decided On : Oct-01-2021

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : OP(C)/1672/2021

Appellant : Predheep

Respondent : JOSHI

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 1ST DAY OF OCTOBER 2021 / 9TH ASWINA, 1943 AGAINST THE ORDER IN OS 795/2012 OF PRINCIPAL SUB COURT,IRINJALAKUDA, THRISSUR PETITIONER/S: PREDHEEP AGED 55 YEARS S/O KRISHNAN, LOKHAMALLESWARM VILLAGE, KODUNGALLUR THALUK, SRINGAPURAM, THRISSUR DISTRICT, PIN-680664. BY ADV P.V.JEEVESH RESPONDENT: JOSHI AGED 58 YEARS S/O THOMAS, EDAVILLANG VILLAGE, KODUNGALLUR THALUK, THRISSUR DISTRICT, PIN-680671. THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 01.10.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The original petition is filed, inter alia, to direct the Court of the Subordinate Judge, Irinjalakuda, to keep in abeyance all further proceedings in E.P No.318/2014 in O.S

2. The petitioner has averred in the original petition

that he was the defendant in O.S.795/2012. He was set ex parte and an ex-parte decree has been passed against him. Now the respondent is attempting to put the decree to

execution by filing E.P.318/2014. The execution petition stands

learning about the ex parte decree, he filed Ext.P2 (I.A application to set aside the ex parte decree and Ext.P3 (I.A No.1258/2019) application to set aside the ex parte decree . Despite the pendency of the above applications, the court below is proceeding with the execution proceeding. If the execution proceeding is finalised before the consideration of Exts.P2 and P3, the petitioner will be put to pecuniary loss and hardship. Hence, the court below may be directed to consider and dispose of Exts.P2 and P3, in accordance with law, as expeditiously as possible and until such time, all further proceedings in E.P. No.318/2014 may be kept in abeyance.

3. Heard; Sri.P.V.Jeevesh, the learned counsel appearing for the petitioner.

4. In view of the limited relief that I propose to pass and as the direction is being issued to the court below, I dispense with notice to the respondent.

5. On a consideration of the pleadings and materials on record in the original petition, particularly taking note of the fact that Exts.P2 and P3 applications are pending

consideration before the court below since 11.4.2019, in exercise of the powers of this Court under Article 226 of the Constitution of India, I direct the court below to consider and dispose of Exts.P2 and P3 applications, as expeditiously as possible and in accordance with law, after affording the respondent an opportunity to file his

objections and hearing both sides. Till orders are passed on Exts.P2 and P3

applications, all further proceedings in E.P. No.318/2014 shall be kept in abeyance. The original petition is ordered accordingly. ma/01/10/2021 Sd/- C.S.DIAS, JUDGE /True copy/ APPENDIX OF OP(C) 1672/2021 PETITIONER EXHIBITS Exhibit P1 THE TRUE COPY OF THE APPLICATION, E A NO.51/2021 IN EP NO.318/2014 IN OS NO.795/2012 OF THE SUB COURT, IRINJALAKUDA. Exhibit P2 TRUE COPY OF THE I.A NO.1259/19 FOR CONDONATION OF DELAY ON THE FILES OF THE SUB COURT, IRINJALAKUDA Exhibit P3 TRUE COPY OF THE I.A NO.1258/19 FOR SETTING ASIDE THE EX PARTE DECREE, ON THE FILES OF THE SUB COURT, IRINJALAKUDA.

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