

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HON'BLE ACTING CHIEF JUSTICE MRS.MANJULA CHELLUR
&
THE HONOURABLE MR.JUSTICE V.CHITAMBARESH**

FRIDAY, THE 30TH DAY OF MARCH 2012/10TH CHAITHRA 1934

WP(C).No. 32185 of 2011 (W)

PETITIONER(S) :

**DAMODARAN,
S/O.KOCHU KUNJAN NADAR, VDV HOUSE,
KANDELA, KANDALA P.O., KATTAKKADA.**

BY ADV. SMT.M.HEMALATHA

RESPONDENT(S) :

- 1. THE SUB INSPECTOR OF POLICE,
ARYANADU POLICE STATION, ARYANADU,
NEDUMANGAD - 695 542.**
- 2. VIJAYARAJAN,S/O. SIMSHON,
KUNNATHU MEKKUMKARA VEEDU,
PUNALAL MURI, PERUMKULAM VILLAGE,
NEDUMANGAD, THIRUVANANTHAPURAM - 695 545.**

**R1 BY SRI.M.K.ABOOBACKER, GOVERNMENT PLEADER
R2 BY ADV. SRI.M.N.MATHEW**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30-03-2012, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

AMV

APPENDIX

PETITIONER(S) EXHIBITS :

- P1. : COPY OF THE JUDGMENT IN O.S.NO.130/99 BEFORE THE ADDITIONAL MUNSIFF'S COURT, NEDUMANGAD, DATED 14.12.1999.**
- P2. : COPY OF THE DECREE IN O.S.NO.130/99 BEFORE THE ADDITIONAL MUNSIFF'S COURT, NEDUMANGAD, DATED 14.12.1999.**
- P3. : COPY OF THE 'B' DIARY IN E.P.NO.127/2000.**
- P4. : COPY OF THE JUDGMENT IN W.P.(C)NO.32941/05 BEFORE THIS HONOURABLE COURT, DATED 03.10.2006.**
- P5. : COPY OF THE JUDGMENT IN W.P.(C) NO.32941/05 BEFORE THIS HON'BLE COURT, DATED 27.03.09.**
- P6. : COPY OF THE SALE CERTIFICATE.**
- P7. : COPY OF THE DELIVERY NOTE.**
- P8. : COPY OF THE JUDGMENT IN W.P.(C) NO.22606/2010**
- P9. : COPY OF THE ORDER IN I.A.NO.3225 OF 2010 DATED 05.04.2011.**
- P10. : COPY OF THE REPRESENTATION DATED 23.10.2011**
- P10(A) : COPY OF THE ACKNOWLEDGEMENT CARD.**

RESPONDENTS' EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

AMV

MANJULA CHELLUR, Ag.C.J

&

V.CHITAMBARESH, J.

W.P(C).No. 32185 of 2011

Dated this the 30th day of March, 2012

JUDGMENT

Chitambaresh, J.

The petitioner is an auction purchaser of an item of property in execution of a money decree. The petitioner contends that he has obtained delivery of the property after sale certificate was issued to him through Court. The petitioner complains that the second respondent has subsequently trespassed into the property and he is in illegal occupation of the same. The second respondent, on the other hand, contends that the decree is vitiated by fraud and that he has moved the Court of Judicial Magistrate of First Class. It is for the petitioner to move the Civil Court for restoration of possession. It is also for the second respondent to move the appropriate forum, if the decree is vitiated by fraud as alleged. Since the police has already been approached, it is open to them to look into the complaint as regards the unlawful trespass complained of and take necessary

action. The police will step in, if there is breakdown of the law and order. No further directions are called for under the circumstances.

The Writ Petition is disposed of as above.

**MANJULA CHELLUR,
ACTING CHIEF JUSTICE**

**V.CHITAMBARESH,
JUDGE**

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