

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN

MONDAY, THE 30TH DAY OF SEPTEMBER 2013/8TH ASWINA, 1935

CRP.No. 346 of 2013 ()  
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AGAINST THE ORDER/JUDGMENT IN OS 235/2011 of SUB COURT, CHERTHALA  
DATED

REVISION PETITIONER/PETITIONER:  
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BASTIN,  
S/O.VINCENT, KOIPARAMBIL, ARUTHUNKAL.P.O  
CHERTHALASOUTH MURI, CHERTHALA SOUTH VILLAGE.

BY ADV. SRI.JIMMY JOHN VELLANIKARAN

RESPONDENT/RESPONDENT:  
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REETHAMMA JOSEPH,  
W/O.A.C.JOSEPH, ARATTUKULAM, CHETHI.P.O  
PERUNNEERMANGALAM MURI, MARARIKULAM NORTH VILLAGE  
PIN-688523.

R1 BY ADV. SRI.J.OM PRAKASH

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION  
ON 30-09-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

RKC

C.R.P.NO.346/2013

APPENDIX

PETITIONER'S EXHIBITS: NIL

RESPONDENT'S ANNEXURES:

- R(1) A TRUE COPY OF THE AGREEMENT DATED 20.5.2008
- R(2) A TRUE COPY OF THE RELEVANT PAGE OF THE IN FORM TR 95 ISSUED FROM THE ARTHUNKAL POLICE STATION.
- R(3) A TRUE COPY OF THE NOTICE ISSUED TO THE PETITIONER DATED 21.10.2011
- R(4) A TRUE COPY OF THE PLAINT IN O.S.235/2011 BEFORE THE SUB COURT, CHERTHALA DATED 10.11.2011.
- R(5) A TRUE COPY OF THE WRITTEN STATEMENT IN O.S.235/2011 OF THE SUB COURT, CHERTHALA
- R(6) A TRUE COPY OF THE SETTLEMENT IN O.S.NO.235/2011 OF THE SUBCOURT, CHERTHALA BEFORE THE LOK ADALATH OF THE TALUK LEGAL SERVICES COMMITTEE, CHERTHALA
- R(7) A TRUE COPY OF THE I.A.NO.774/2013 DATED 17.7.2013

RKC

//TRUE COPY//

PA TO JUDGE.

**P.N.RAVINDRAN, J.**

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**C.R.P.No.346 of 2013**  
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**Dated this the 30<sup>th</sup> day of September, 2013**

**ORDER**

The petitioner is the defendant in O.S.No.235 of 2011 on the file of the Court of the Subordinate Judge of Cherthala. The respondent is the plaintiff therein. The suit instituted by the respondent is one for specific performance of an agreement for sale entered into between the parties on 20.5.2008. The dispute between the parties was settled in the Adalath held on 4.12.2012 by the Taluk Legal Services Authority, Cherthala. As per the terms of the compromise, the petitioner/defendant ought to have paid to the respondent/plaintiff the sum of ₹.13,70,000/- with interest at 9% per annum from 20.5.2008. The time limit stipulated for payment was six months. The parties had also agreed that for that purpose the defendant will be free to find out another purchaser, enter into an agreement with him and pay over the sum of ₹.13,70,000/- to the defendant before executing the sale deed. The parties had also agreed that upon such payment being made, it will be open to the defendant to apply to have the order of attachment passed on I.A.No.1679 of 2011 vacated. There was also a stipulation to the effect that in the event of default, the plaintiff will be free to have the sale deed executed in his favour through the process of the court.

2. The time limit stipulated for payment expired on 4.12.2012. The petitioner did not pay the sum of ₹.13,70,000/- with interest within the stipulated time. A week after the time limit stipulated for payment expired, the petitioner filed I.A.No.624 of 2013 under section 148 read with section 151 of the Code of Civil Procedure for enlargement of the time limit stipulated in the award passed by the Adalath. Though in the relief portion the period was not mentioned, in paragraph 5 he had averred that the time limit may be extended by a period of 15 days. The reasons which compelled him to make such a request were also set out in the affidavit. I.A.No.624 of 2013 which was filed on 11.6.2013 came up for consideration before the trial court on 12.6.2013. By order passed on the same day even without objections being filed from the side of the respondent, the court below dismissed it by the following order:

"This court has no power to extend time in an award passed in Adalath. Hence this petition is dismissed".

The said order is under challenge in this original petition.

3. It is now well settled by the decision of the Apex Court in **Thomas v. Thomas Job** (2005 (3) KLT 1042) that the civil court has power to enlarge the time limit fixed in the award passed by the Adalath. The stand taken by the court below in the impugned order

cannot therefore be sustained. Apart from holding that it has no power to extend the time limit stipulated in the award passed in the Adalath, the court below has not given any reason to reject the application. Such being the situation, though the learned counsel for the petitioner offered to pay the entire the amount due together with interest in terms of the award passed by the Adalath before 7.10.2013, I am of the opinion that the petitioner should make a request in that regard before the court below. At least in the first instance the court below should consider the reasons put forward by the petitioner for enlargement of time and decide whether extension of time should be granted. Since the court below has not adverted to the request on the merits, I do not deem it appropriate to consider the request for enlargement of time on the merits at this stage.

I accordingly allow the civil revision petition, set aside the order passed by the Court of the Subordinate Judge of Cherthala on 12.6.2013 on I.A.No.624 of 2013 in O.S.No.235 of 2011, restore the said application to file and direct the court below to dispose of the application afresh within two weeks. The application shall stand posted before the court below on 4.10.2013. The respondent herein shall file objections, if any, to I.A.No.624 of 2013 without fail on 4.10.2013. The court below shall thereupon take up the application

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for hearing on 7.10.2013 and dispose it of that day itself.

Registry is directed to issue certified copies of this order on the learned counsel on both sides, if applied for, today itself.

Sd/-  
**P.N.RAVINDRAN,**  
**JUDGE.**

rkc.