

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V. CHITAMBARESH

SATURDAY, THE 31ST DAY OF MAY 2014/10TH JYAISHTA, 1936

CRP.No. 386 of 2014 ()

AGAINST ORDER IN EP NO. 33/2013 IN OS NO. 44/2011 OF SUB COURT, KOCHI

REVISION PETITIONER(S)/IST JUDGMENT DEBTOR/ IST DEFENDANT:

SUMESH K CLETUS, AGED 31 YEARS
S/O K.G. CLETUS, KODAYAVALLAPPIL,
T & R CROSS ROAD, THOPPUMPADY,
ERNAKULAM DISTRICT COCHIN 682 005

BY ADVS. SRI. JIMMY GEORGE (VATTATHARA)
SRI. T. JEEJAN

RESPONDENT(S)/DECREE HOLDER & JUDGMENT DEBTORS 2 & 3/
PLAINTIFF & DEFENDANTS 2 & 3:

1. THE STATE BANK OF INDIA,
REPRESENTED BY ITS DEPUTY MANAGER
(CITY CASE OFFICER), STRESSED ASSETS RECOVERY BRANCH
M.G. ROAD, ERNAKULAM, COCHIN 11
2. K.R. SANTHOSH, AGED 40 YEARS
S/O E.K. RAJAN, IS DOING BUSINESS AT M/S REXIN HOUSE
MARIAM COMPLEX, THOPPUMPADY, COCHIN 682005
ERNAKULAM DISTRICT
3. SARAVANAN.P, S/O PEECHAI, AGED NOT KNOWN
IS RESIDING AT PANAKKAL HOUSE
KOOTTUNGAL LINE, THOPPUMPADY, KOCHI 682005
ERNAKULAM DISTRICT

BY ADV. SRI. GEORGE THOMAS (MEVADA), SC, SBI

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON
31-05-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. CHITAMBARESH, J

C.R.P. NO. 386 OF 2014

Dated this the 31st day of May, 2014

ORDER

Heard the counsel for the petitioner and the Standing counsel for the first respondent bank.

2. The plea of no means raised by the revision petitioner/first judgment debtor has been turned down by the court below by the order impugned. The petitioner himself concedes in the Civil Revision Petition that stock-in-trade is readily available to be proceeded against. But there is paucity of evidence to hold that the business has been transferred to the mother of the revision petitioner as alleged.

2. The revision petitioner very much resides in his parental home as reflected in the affidavit accompanying the Civil Revision Petition. The revision petitioner had availed the loan contending that he is possessed of property worth over ₹20,00,000/- (Rupees Twenty lakhs only). No evidence has been let in to show that the petitioner has since alienated this property and has no wherewithal to pay with the decree debt.

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3. The finding of the court below that the revision petitioner is possessed of sufficient means to pay the decree debt is well founded. The court below was not erred in directing the revision petitioner to be arrested and detained in civil prison in the circumstances.

4. I however permit the revision petitioner to pay the decree amount in six equal monthly instalments starting from 01.07.2014. The petitioner shall not be arrested and detained in civil prison if he pays the amount in instalments as directed. The coercive steps can be pursued against the revision petitioner if anyone of the instalments are defaulted by him.

The Civil Revision Petition is dismissed subject to the above clarification.

**V. CHITAMBARESH
JUDGE**

ncd