

IN THE COURT OF THE SUBORDINATE JUDGE, PERUMBAVOOR

Present:- Sri.Johnson M.I, Sub Judge

Saturday, the 21st day of October, 2023 / 29th Aswina 1945

E.A.No.185/2023 in E.P.No.32/2014 in L.A.R.No.89/2011

Petitioner /Claimant/Decree Holder :-

T.C.Vavachan, S/o Late Varkey Chacko,
Thuruthiparambil House, Brahmapuram P.O.,
Puthencruz Village, now residing at Thuruthiparambil House,
Thammanimattom, Ramamangalam P.O.,
Kolencherry, PIN - 686663.

By Adv.Varghese K.Paul.

Respondents /Judgment Debtors :-

1. State of Kerala rep. by the
District Collector, Ernakulam.
2. The Kochi Coporation, Park Avenue, Ernakulam,
represented by its Secretary, Pin-682011.

JD1 - By Adv.M.G.Sreekumar, Addl.Govt.Pleader.

JD2 - No Vakalath.

This petition is filed under Section 151 of the Code of Civil Procedure to stay the attachment procedure for avoiding her from the Garnishee proceedings or to give time till getting permission from government to

disburse the amount and is coming on for final hearing on 21.10.2023 in the presence of the above counsels and the court on the same day passed the following :-

ORDER

Heard both sides. In EA 153/2023, Account No.0030021029900 for Rs.19,90,864.81 was attached by this court and notice was issued to treasury officer with respect to the attachment and for filing objection if any. At that time, treasury officer through Additional Government Pleader filed this petition for avoiding her from the Garnishee proceedings or to give time till getting permission from government to disburse the amount. Decree holder filed objection to this petition.

2. In EA 153/2023, attachment was ordered and notice was issued to treasury officer not as a garnishee but under Order 21 Rule 52 CPC. Hence, garnishee proceedings not to be complied with. It can be seen that, Treasury officer is in custody of the amount attached by the court. Hence, treasury officer is bound to obey the order of the court and to deposit the amount before the court as and when directed. She is not entitled to

putforth a defence that, she has to get permission from the government which is the judgment debtor in this EP, so as to deposit the amount before the court. If it is allowed there will not be any purpose in filing the EP itself and the same will result in directing the decree holder to wait until the government pleases to pay the amount due to decree holder. In the said circumstances, court will be thrown out and the decree holder will be remediless if the government do not pleases to pay the amount. The same cannot be allowed. In the light of above discussion, this petition is only to be dismissed.

In the result, EA is dismissed. No costs.

(Pronounced by me in the Open Court on this the 21st day of October, 2023)

Sd/-
JOHNSON M.I
SUB JUDGE

APPENDIX :- NIL

Sd/-
Sub Judge

Pkm.
Compd by.Akr

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ORDER

DATED : 21.10.2023