

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

MONDAY, THE 10TH DAY OF JULY 2023 / 19TH ASHADHA, 1945

EX.SA NO. 2 OF 2023

AGAINST THE JUDGMENT DATED 21-01-2023 IN AS 156/2022 OF III ADDITIONAL
DISTRICT COURT, THIRUVANANTHAPURAM

AGAINST THE ORDER DATED 30-03-2022 IN EA 187/2019 OF PRINCIPAL MUNSIF
COURT, THIRUVANANTHAPURAM

APPELLANTS/APPELLANTS/PETITIONERS-CLAIM PETITIONERS:

- 1 SIBI S. NAIR
AGED 41 YEARS
SON OF INDIRA SREEDHARAN NAIR, RESIDING AT PAZHAYA AMMA VEEDU,
T.C.36/1373(3), VALLAKKADAVU P.O., PETTAH VILLAGE, PERUMTHANNI
MURI, THIRUVANANTHAPURAM, PIN - 695008.
- 2 MADHAVE
AGED 11 YEARS (MINOR),
REPRESENTED BY HIS FATHER 1ST APPELLANT - SIBI S.NAIR, AGED 41
YEARS, S/O INDIRA SREEDHARAN NAIR, RESIDING AT PAZHAYA AMMA
VEEDU, T.C.36/1373(3), VALLAKKADAVU P.O., PETTAH VILLAGE,
PERUMTHANNI MURI, THIRUVANANTHAPURAM,
PIN - 695008.

BY ADVS.
T.N MANOJ T N
ABHILASH M.J. (K/122/2021)

RESPONDENTS/RESPONDENTS/DECREE HOLDER AND JUDGMENT DEBTOR:

- 1 N.S. SAJITHA, AGED 57 YEARS
D/O NALINAKSHY AND WIFE OF SANAL KUMAR, RESIDING AT
KARIKOTHIL, V.P.1/1197, PALLIMUKKU, PEYADU,
THIRUVANANTHAPURAM, PIN - 695573.
- 2 INDIRA SREEDHARAN NAIR, AGED 65 YEARS
W/O SREEDHARAN NAIR, RESIDING AT PAZHAYAMMA VEEDU,
T.C.36/1737(1), VALLAKKADAVU, PETTAH VILLAGE, PERUMTHANNI,
THIRUVANANTHAPURAM., PIN - 695008.

BY ADV V.SURESH- R1

THIS EXECUTION SECOND APPEAL HAVING COME UP FOR ADMISSION ON
10.07.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

T.R. RAVI, J.

EX.SA. No.2 of 2023

Dated this the 10th day of July, 2023

JUDGMENT

The appeal has been preferred by the claim petitioners. Admittedly, the claim petitioners are the son and grandson of the judgment debtor-2nd respondent. Respondent No.1 is the decree holder. The 1st respondent had initiated steps for eviction of the 2nd respondent which culminated in the judgment in RCP No.54 of 2009. The order of eviction was confirmed in appeal and thereafter in revision before this Court. In execution, the son and grandson of the judgment debtor filed a claim petition contending that they are joint owners of the property and they also have Kudikidappu right in the property. The contentions were rejected by the execution court as well as the first appellate court.

2. While hearing the appeal, the counsel for the appellants confined his arguments to the contention that the property scheduled to the rent control petition is a building

bearing No.TC 36/1373 (2) in Perunthanni Ward in the Corporation of Thiruvananthapuram and the attempt in the execution petition is to get delivery of property in excess of what is scheduled.

3. The counsel for the 1st respondent submitted that what is scheduled alone is sought to be executed and as a matter of fact, what is scheduled has been identified by an Advocate Commissioner, who was appointed by the rent control court and the order regarding the identification of the petition scheduled building has already become final.

In the above circumstances, no substantial questions of law arise to be decided by this Court. The second appeal fails and is dismissed. However, it is made clear that the execution court shall confine the delivery, to the property that has been scheduled in the rent control petition, and as decided in the judgment in the rent control petition, confirmed till revision by this Court.

**Sd/-
T.R.RAVI
JUDGE**

mpm