

Kerala High Court
Ashraf vs Jabber on 6 August, 2009

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 9121 of 2009(0)

1. ASHRAF S/O. PUZHANKARAYILLATH ABU,
... Petitioner

Vs

1. JABBER S/O. KAKKAT AB00BACKER,
... Respondent

For Petitioner :SRI.P.V.KUNHIKRISHNAN

For Respondent :SRI.G.SREEKUMAR (CHELUR)

The Hon'ble MR. Justice S.S.SATHEESACHANDRAN

Dated :06/08/2009

O R D E R

S.S.SATHEESACHANDRAN, J.

W.P.(C).No.9121 of 2009 - 0

Dated this the 6th day of August, 2009

J U D G M E N T

The writ petition is filed by the judgment debtor in E.P.378 of 2007 in O.S.No.226 of 2004 on file of the Munsiff Court, Kodungallur. Though in the writ petition some directions have been sought for in relation to A.S.No.199 of 2006 on the file of the Sub Court, Thrissur and also I.P.No.3 of 2008 on the file of the same court, at the time of hearing learned counsel for the petitioner submitted that he is confining his relief for a direction only in respect of the execution petition pending before the Munsiff Court, Kodungallur. Respondent is the decree holder in the decree which is being executed before that court. The grievance canvassed by the petitioner is that despite informing the court that he has filed a insolvency proceedings as I.P.No.3 of 2008 to declare him as an insolvent, the execution court issued a warrant for the reason that he did not appear on the posting date of the execution petition.

2. I heard the counsel for the petitioner and also the respondent/decreed holder.

W.P.(C).No.9121 of 2009 - O

3. By virtue of an interim order passed by this Court, the execution of the warrant has been kept in abeyance. The learned Munsiff is directed to examine the question of issuing warrant against the judgment debtor with reference to the provisions under the Insolvency Act when a proceedings thereof is stated to have been commenced by the judgment debtor. The stay granted by the court directing the keeping in abeyance of the execution of the warrant shall continue to be in force till the above question is considered by the execution court and appropriate orders passed in accordance with law.

Subject to the above observation, the writ petition is closed.

S.S.SATHEESACHANDRAN, JUDGE.

bkn/-