

IN THE COURT OF SUB JUDGE, ALAPPUZHA

Present:-Smt. Rekha Laurian, Sub Judge

Saturday the 20th day of September, 2025/29th Bhadra 1947

EA.11/2025 in EP.21/2025 in OS 18/2023

(Filed on 16.09.2025)

Claim Petitioner:- Changankary Nadubhagom Christian Union vaka,
St. George Chundan Vallam,
Reg. No. ALP/TC/387/2021, Changankary P.O,
Edathua Village, represented by its President,
Jaimy Jose

(By Advs.Manoj George & Princy Manoj)

Counter Petitioners:-1. Brothers Boat Club, Edathua, Edathua Village,
Kuttanadu Taluk, Alappuzha, represented by its
present Secretary(Decree Holder)

2. Chnagankary Nadubhagom Christian Union
Reg. No. ALP/TC/571/2018, Karimpalil Buildings
10/47, Edathua Village,Edathua (Judgment Debtor)

This petition having been finally heard on 20.09.2025 and the court on the same day passed the following:

ORDER

The application is filed by the claim petitioner under Order XXVI Rule 9 r/w Section 151 of Civil Procedure Code.

2. Petition averments:- The claim petitioner is a body constituent namely Changankary Nadubhagom Christian Union vaka St.George Chundan Vallam. The application is filed by the present president. The first counter petitioner/decree holder have maliciously incorporated the assets of claim petitioner union for satisfying the decree. The court in EA.10/2025 directed to take attached movable snake boat in the safe custody of decree holder. After the Neheru Trophy boat race, the snake boat was kept in the custody of claim petitioner's Union Secretary's

adjacent river awaiting next races. As per order three court officers visited the claim petitioner's Secretary's house river bank along with the decree holder, police force and about 60 unruly elements from far off places. They happened to tow the snake boat with another boat and pulled out from water in utmost unbecoming way thereby inflicting serious damages to the snake boat kept in the premises of claim petitioner. The execution petition is being proceeded by purposefully hiding certain facts and for effective disposal of the claim petition. The commissioner's report regarding the actual facts of the case need to be ascertained. In order to ascertain the damages inflicted by the process, an expert needs to be appointed for proper adjudication. The commissioner needs to visit the premises with immediate effect. Hence the application may be allowed.

3. The learned counsel for the first respondent/decreed holder submitted oral arguments as follows:-The learned counsel argued that the execution petition is filed for execution of decree in favour of the plaintiff for realisation of money. The total decree amount is Rs.22,05,890/- (Rupees Twenty Two lakhs Five Thousand Eight Hundred and Ninety only). In furtherance of the said execution movable as well as immovable property of the judgment debtor is attached. Now the claim petitioner is seeking to ascertain the identification particulars of the snake boat and damages sustained by the snake boat presently. It is important to note that the damages of the snake boat if any sustained has no relevance to be considered while adjudicating the claim petition. Through the claim petition what

they seek is only to ascertain the ownership of the snake boat. Since the matters to be ascertained has nothing in connection to the claim petition and execution of the decree, the application is liable to be dismissed.

4. The learned counsel for the claim petitioner argued in tune with the commission application.

5. I consider commission application and oral arguments of both sides. Through the commission application, the claim petitioner has sought to ascertain the following : “1) To ascertain the present state, nature and possession of attached movable snake boat, kept in claim petitioner’s premises; and also to report the name and identification particulars on the snake boat in the light of its available registration documents and canal pass. 2) Ascertain with the help of an expert, the damages sustained by the snake boat presently and briefly report the same with possible photographs. 3) To ascertain the place and mode of possession of the snake boat in claim petitioner’s premises. To ascertain the address of the claim petitioner and also ascertain the address of the decree holder as per their official registered office. 4) To report in brief the particulars and valuables kept in claim petitioner’s premises, comprising of snake boat, its offices, Motor Pully etc”. It is well settled possession of law that possession of a particular thing cannot be ascertained through a commissioner. Further the claim petitioner had sought for ascertaining nature and possession of snake boat and also identification particulars

of the snake boat in the light of available registration documents. They have also sought for ascertaining the address of the claim petitioner and also ascertain the address of the decree holder as per their official address. These facts in no way come within the purview of the commission application. Further they have sought for ascertaining particulars and valuables kept in the claim petitioner's premises. These also is not a matter of adjudication in the petitions before this court. As per Order 26 Rule 9, the commission to make local investigation is appointed if in any suit the court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute or of ascertaining the market value of any property. Here the matters sought for does not come within the purview of Order 26 Rule 9 of Code of Civil Procedure. Considering these aspects, I am not inclined to allow this application.

6. In the result application is dismissed. No order as to costs.

(Dictated to the Confidential Asst. transcribed and typed by her, corrected by me and pronounced in open court today this the 20th day of September, 2025.)

Sd/-
REKHA LAURIAN
SUB JUDGE

Appendix:Nil

Id/-
SUB JUDGE