

IN THE COURT OF THE SUBORDINATE JUDGE, ALAPPUZHA

Present:-Smt. Rekha Laurian, Sub Judge
Wednesday the 8th of April 2026/18th Chaithra 1948
EA.14/2025 in EP 21/2025 in OS.No. 18/2023
Filed on 19.09.2025

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

(By Adv. K.S.Hariharaputhran)

This executin application having been finally herd on 06.04.2026 and the court on 08.04.2026 passed the following:-

ORDER

The petition is filed under Order 21 Rule 57 of Code of Civil Procedure.

2. Petition averments :- The petition is filed by the claim petitioner. The claim petitioner is a body constituent named “Changankary Nadubhagom Christian Union Vaka St. George Chundan Vallam”. The application is filed by the present president. As per direction in EA.10/25 this court effected over the scheduled properties in EA.1/2025. Instead of complying the said order the Amin happened to take the boat out from river waters and placed the same in the premises of claim petitioner’s property. Due to the said acts, the snake boat had suffered severe damages and need to be repaired without delay. To the best of the knowledge the Amin brake

open the premises of the claim petitioner's office and placed the snake boat in the premises and locked the same denying the access of the claim petitioners. The Amin failed to report the mode of procedure as to how he identified the movable property which is a snake boat, wherein explicitly the same can be read from its name, place at top end. The registration number and other identification are displayed on various parts inside and outside the snake boat. A mere perusal of said name in the snake boat is more than enough to identify and clarify the fact that proposed attachment schedule item and that of the claim petitioner's boat are not the same. The name of the claim petition property is "Changankary Nadubhagom Christian Union Vaka St. George Chundan Vallam" whereas the proposed attachment is to be effected over "Changankary Nadubhagom Christian Union". The Amin in EA 1/2025 failed to identify the property as per the schedule and the attachment if effected is without any verification of survey numbers and identification marks. The Amin failed by making a false report that the JD had denied to receive the assets in his safe custody even though there is clear evidence that the so called JD stand dissolved. The Amin ought to have reported rightly before the court regarding the change in name in the revenue records and other details and also identical factors of address of JD and decree holder. A detailed objection against the acts of the Amin is already filed. For these reasons the court may be pleased to pass an order lifting/modifying the attachment effected in EA 1/2025 through the process of EA.10/2025 and to hand over the same to the claim petitioner at the earliest and to render justice. Or else the union will suffer irreparable loss and damage and the boat will suffer severe tear due to its improper storage in claim petitioner's property. The value of the same will be deteriorated if the same is kept in the manner put by the decree holder.

3. Objection filed by the decree holder :- The application is not maintainable either in law or on facts. The claim petitioner has absolutely no manner of right over the attached property. The claim petition is filed with view to defeat and

delay the execution proceedings pursuant to the decree passed and to wriggle out from the obligation of the judgment debtor, after creating bogus document approached to this court with utmost unclean hands and therefore, the above EA is liable to be dismissed in limini. The above suit was filed by the decree holder against the judgment debtor 2nd respondent, Changankary Nadubhagum Christian Union, reg.No.ALP/TC/571/2018 for realisation of an amount of Rs.16,20,000/- along with interest and costs and this court passed a decree allowing the decree holder to realise the said amount along with the interest and costs from the 2nd respondent-judgment debtor as per judgment and decree dated 17.07.2025. 2nd respondent – judgment debtor was exparte and before passing the judgment and decree, one Joselet M Joseph filed written statement under protest, challenging the institution of the suit and this court was pleased to dismiss his application for accepting the written statement and decreed the suit. The aforesaid Joselet M Joseph is seen as the Treasurer in the so called claim petitioner-Association. As such, the very intention, as is evident from the aforesaid facts is that the decree holder is somehow or the other defeated from enjoying the fruits of the decree that is passed in its favour. All the averments contained in the affidavit in support of the above EA except those that are expressly admitted or otherwise dealt with hereunder, stand denied, being false and incorrect. It is submitted that the 1st respondent-decree holder is an association registered under the provisions of Act 12 of 1955. The 2nd respondent judgment debtor is also another association registered under the said Act. That while so, in the year 2019, on the request of the judgment debtor, the decree holder agreed and decided to make the St.George Chundan owned by the judgment debtor to participate in the 1st Champions Boat League and that the judgment debtor agreed and promised that it would meet all the expenditures incurred for participating in the same and an agreement was also entered into in that regard. In that regard, the judgment debtor issued two post dated cheques in favour of the decree holder, for Rs.9,00,000/- and Rs.3,00,000/-, respectively. Though the said cheques were presented, the same got dishonoured on

account of insufficient funds and thereupon, the above suit was filed for realisation of the said amount with interest and the same was decreed and the judgment and decree has become conclusive and final also. In the afore circumstances the attached snake boat, St. George Chundan and the boat shed purchased in the name of 2nd respondent judgment debtor were attached in execution of the decree passed in the above case. It is submitted with a view to defeat the execution of the valid decree that is passed in the above case, after the issuance of the said cheques and after incurring the liability, certain members of the 2nd judgment debtor has done certain illegal and unauthorised acts and caused to form the claim petition association, making it appear that the judgment debtor association is dissolved. Thereafter, after forming the claim petitioner the claim petitioner association, the assets of the alleged dissolved judgment debtor association has been taken over by the claim petitioner association, which is also said to be a charitable organization registered under Act 12 of 1955. The bye-laws of the judgment debtor association and so called claim petitioner association would clearly go to show that the claim petitioner association is none other than the judgment debtor association and all the assets of the judgment debtor association are claimed as the assets of the claim petitioner association. It is also submitted that the so called claim petitioner association is formed in violation of the provisions contained in the judgment debtor association and therefore, it is evident that the judgment debtor association and the so called claim petitioner association are in fact one and the same. Above all, if the liability of the judgment debtor association has been incurred at the time when the judgment debtor association is well in existence. The assets said to be taken over by the so called claim petitioner association are liable for the liabilities of the judgment debtor association. As such, the claim petitioner cannot claim any independent right over the attached properties, to sustain a claim petition of this nature. The property wherein the Boat shed is situated was purchased by the judgment debtor association, as per sale deed No.1383 dated 28.06.1993 of the SRO, Ambalappuzha and it has effected mutation on respect of the same and is paying

the basic tax. Similarly, the St. George Chundan Vallom was also built by the 2nd respondent-judgment debtor association, and there is absolutely no document to show that the attached properties are transferred by the judgment debtor to the claim petitioner. On the other hand, even as per the bye laws of the claim petitioner that it simply assumed proprietary and possessory rights over the attached properties. Therefore, the mal intention on the part of the claim petitioner to defeat the claim of the decree holder is very much obvious. The attached properties still remain in the ownership and possession of the 2nd respondent/judgment debtor and the claim petitioner has no right over it. The basic tax in respect of the attached property is in the name of the judgment debtor association. The bye laws of the claim petitioner association is not capable of conferring any right on the claim petitioner over the attached properties. The 2nd judgment debtor association is very much in existence, and so called dissolution of it in 2021 is fraudulent, illegal and invalid under law. There is no malpractice on the part of the office bearers of the 1st respondent/decreed holder, as alleged and no manipulation of accounts were ever made by them. The so called expulsion was challenged before the Munsiff's Court, Alappuzha in OS.33/2021 and an order of injunction against expulsion is still in force also. The claim petition is devoid of any merit and it is to be dismissed. The attachment order is perfectly valid and legal and the objections raised by the claim petitioner are not at all worthy of any merit. The averments contained in paras 1 of the affidavit are not true and correct and hence denied. As per the order of this court in EA 1/2025 and EA.10/2025, this court ordered attachment of the scheduled properties. In order to keep away the attached movable property, the petitioner and it's men adopted illegal means and at last after putting in great amount of effort, he could seize and attach on 15.09.2025. The order of attachment specified that the snake boat has to be given into custody of judgment debtor, on executing necessary bond. The judgment debtor was not amenable for getting custody of the said snake boat and therefore as per the order dated 11.09.2025, the officer of the court was directed to entrust possession of the

schedule snake boat with the decree holder, after keeping it in the scheduled vallapura. The officer of the court entrusted the possession of the said snake boat to the decree holder and locked the vallapura and entrusted the keys to the decree holder on 15.09.2025. Thereafter, in the odd affairs of the 15.09.2025, the men under the judgment debtor, in gross violation of the order and with a view to cause injury to decree holder, destroyed the lock, put on the vallapura and overlocked the same, against which Edathua police has registered a criminal case against them and in investigation in that is going on. That on damage, whatsoever, was suffered by the snake boat, when the officer of the court, took the boat to the vallapura and kept their. Amin has acted only in accordance with the direction of the court. The averments of the contra in paragraph 2 of the affidavit are not true and hence denied. The averments contained in para 3 of the affidavit are not fully correct and hence denied. The attached snake boat and attached property absolutely belongs to the judgment debtor and as stated above, with a view to somehow or other escape from the liability, the petitioner association, rather it appears that the petitioner association has formed illegally, that petitioner association has no right over the attached property. The Amin has identified the attached properties as per the schedule and he has given the true report also. The so called change in the revenue records, with the sinister motive of defeating the claims of the decree holder is unsustainable and cannot be relied on for the purpose of showing that the petitioner has got title over the attached properties. To the claim petition filed by the claim petitioner as EA 15/2025, the decree holder has filed detailed objections and the contentions raised there in by the decree holder may be considered as part of this objection. That as such, the petitioner is not at all entitled to get the order of attachment by this court in EA.1/2025 and EA.10/2025 lifted. As such, the order of attachment is not at all liable to be released/lifted. The averments to the contra in para 1 to 6 of EA are not true and correct and hence denied. Hence the petition is liable to be dismissed with costs.

4. Head both sides.

5. I perused the application, objection and connected records. The claim petitioner herein has filed EA.4/2025 and evidence had been adduced in the said proceedings. Now it is posted for final hearing. So the locus standi of the claim petitioner will be adjudicated only after pronouncing the order in the said proceedings. The decree of this court is not under challenge. So unless the claim petition is disposed off it is not fair and just to entrust the attached property to the claim petitioner. Further during the enquiry in EA.04/25 the claim petitioner did not raise a contention that the snake boat was having immediate requirements of maintenance. Considering these aspects, I am not inclined to allowed this application.

6. In the result, the application is dismissed with costs.

(Dictated to the Confidential Asst. transcribed and typed by her, corrected by me and pronounced in open court today this the 08th day of April, 2026.)

Sd/-

Rekha Laurian
Sub Judge

Appendix : Nil

Id/-
Sub Judge