

**IN THE COURT OF THE SUB JUDGE, CHERTHALA**

**Present: Ms. Lakshmy.S, Sub Judge**

**Wednesday, the 8<sup>th</sup> April 2026/ 18<sup>th</sup> Chaithra 1948**

**IA.19/2025 in OS.8/2023**

(Filed on 13.02.2025)

Petitioners/ Plaintiffs:

1. Naveen Jayasankar, aged 26 years, S/o. Jayasankar, 26/408 A, Sudarsanam, Puthiyakavu, Vaikom Main Road, Thripunithura, Ernakulam : 682 301
2. Parvathi Ashok, aged 51 years, M/o. Naveen Jayasankar, 26/408 A, Sudarsanam, Puthiyakavu, Vaikom Main Road, Thripunithura, Ernakulam : 682 301

By Adv. T. Jayakrishnan, Adv. Hormis Abraham,  
Adv. S. Lekha, Adv. M.V. Baiju & Adv. Aravindakshan. M.R

Respondents/Defendants & Others:

1. Alpa Jayasankar, aged 45 years, W/o. Late M. Jayasankar, Jayakarathi Puliyannoor Madom, CMC – XI, Cherthala
2. Rani, Paint Home, Nandini Shopping Complex, Cherthala
3. Ajithkumar, Colour Vision, Nandini Shopping Complex, Cherthala
4. Subi, Sagarika, Nandini Shopping Complex, Cherthala
5. Rani Shine, Pupa, Nandini Shopping Complex, Cherthala
6. Devan, Pupa, Nandini Shopping Complex, Cherthala

7. Anjali, Pupa, Nandini Shopping Complex, Cherthala
8. Omanakuttan, Bangalore Sports, Nandini Shopping Complex, Cherthala
9. M/s Adv. M.P. Gopinathan Memorial Stadium, Nandini Shopping Complex, Cherthala
10. V.S.Lal, V.S. Lal Sanitary, North of Iron Bridge, Cherthala
11. Raveendran, NIT, North of Iron Bridge, Cherthala
12. Paul Issac, Princy Travels, North of Iron Bridge, Cherthala
13. Subramonian, Alfabet, North of Iron Bridge, Cherthala
14. Jose. K. Varghese, Kings Airways, North of Iron Bridge, Cherthala
15. M/s Maliyekkal Agencies, North of Iron Bridge, Cherthala
16. Ulahannan, Papermart, North of Iron Bridge, Cherthala
17. M.M. Nias, Advocate, North of Iron Bridge, Cherthala
18. CITU Bhavan, North of Iron Bridge, Cherthala
19. Sindhu. S. Nair, IC, G.J. Properties, First Floor, Cherthala
20. Benni. S, Flat on 9<sup>th</sup> floor of G.J. Properties, Cherthala
21. Dhanush Krishna. S. Kammath, 24/180F, Cherthala
22. Dinesh Sreenivasan, Authorised Signatory, Nandini Tourist Home, Kizhakke Nada, Guruvayoor

23. Shakeer, Manager, Nandini Tourist Home,  
Kizhakkenada, Guruvayoor
24. Sasi, Proprietor, Nandini Restaurant,  
Nandini Tourist Home, Kizhakke Nada, Guruvayoor
25. Moni, Proprietor, Nandini Restaurant,  
Nandini Tourist Home, Kizhakkenada, Guruvayoor
26. Adv. Ravichandran, Proprietor, Nandini Restaurant,  
Nandini Tourist Home, Kizhakkenada, Guruvayoor
27. Suresh, Proprietor, Nandini Restaurant,  
Nandini Tourist Home, Kizhakkenada, Guruvayoor
28. Vijesh Nikarthil, 11/581, Badminton Court,  
Jayakrthi, Cherthala
29. Ullas Kumar, Mattathil, A 2 Z Driving School, 11/1185,  
C.M.C-XI, Cherthala
30. Manikandan, Tip Top Iron Centre, 11/1185,  
C.M.C-XI, Cherthala
31. Moni, Tip Top Iron Centre, 11/1185, C.M.C-XI, Cherthala
32. Gopalakrishnan, Mattathil, East of K.S.R.T.C Stand,  
C.M.C-X, Cherthala (conducting Thattu Kada from 5-10  
Opposite Himalaya Bakery, Near Entrance to  
Rajiv Gandhi Auditorium, Cherthala)

R1 By Adv. Premkumar. K. & Adv. C. Preetha,  
R12, R16 & R28 By Adv. Tom Issac,  
R13 By Adv. P. Rajesh, R19 By Adv. Bright Yesudas. K.J,  
R22 By Adv. P.S. Jyothish Kumar, Adv. T.P. Prasheela &

Adv. Sinimol. P, R24 By Adv.P.S. Jyothish Kumar &  
Adv. T.P. Prasheela

This petition coming on for final hearing on 07.04.2026 and the court on 08.04.2026 passed the following:

**ORDER**

This petition is filed by the plaintiff under O.V R.20 and S.151 CPC to arrest the respondents No.2 to 21 and 23 to 32 and sent them to Civil Jail for the maximum period, for willful disobedience of the Order passed in IA.4/2023.

2. The contentions of the petitioner, are as follows:

The petitioner is the 2<sup>nd</sup> plaintiff in the above suit. The 1<sup>a</sup> plaintiff is her son who is autistic and lives under her care and protection. He is the son of Late M.Jayasankar. The suit is one for partition. The building tenants and other occupants of the premises leased out by late M.Jayasankar are not paying the rent. This prompted filing of L.A.No.4/2023 and it was allowed on 4.12.2024. The tenants have not opted to deposit the rent in Court. Willful disobedience to the order passed by the court will invite consequences including contempt of court. No further proof is required as no amount is paid towards rent by any tenant in court. Hence, the petition.

3. The 1<sup>st</sup> counter petitioner filed objections to the IA, raising the following contentions:

The petition is not maintainable either in law or on facts. All the allegations and averments in the affidavit and petition are denied. An order was passed in IA No 4/2023 to deposit rent before this Court, which needs clarification. So, this counter petitioner filed IA No.18/2025 seeking direction to open a bank account for deposit of rent, is pending. The nonpayment of rent by the tenants is to be dealt under provisions of Building (Lease and Rent Control) Act. No coercive steps can be initiated as per the provisions under which the petition is filed. The petitioners are not legally entitled to get relief claimed in the petition. So, the petition is liable to be dismissed.

4. Heard both sides.

5. The following points arises for consideration: -

(1) Whether the respondents in IA 4/23 could be prosecuted for non compliance of the directions of this Court, as prayed for?

(ii) Order and costs?

6. **Point No.1:-** This petition arises in the suit for partition filed by the plaintiffs in respect of the properties of Late M. Jayasankar. The 2<sup>nd</sup> plaintiff is the widow of Late Jayasankar and the 1<sup>st</sup> plaintiff is her son, who is autistic and under her care. As an interim arrangement, tenants occupying the building belonging to the estate were directed in I.A. No.4/2023 to deposit rent before this Court.

7. It is the grievance of the petitioners that despite the order, none of the tenants have deposited rent in Court, amounting to willful disobedience. Hence, the present petition has been filed seeking arrest and detention. The 1<sup>st</sup> counter petitioner has filed objections contending that the petition is not maintainable. It is also contended that nonpayment of rent is to be dealt with under the provisions of the Kerala Buildings (Lease and Rent Control) Act, and coercive steps cannot be initiated in this partition suit.

8. The plaint schedule properties which are 39 items, belonged to Sri M. Jayasankar who died intestate. The plaint schedule properties include numerous shop rooms and buildings rented out to several persons and most of those buildings are in Cherthala. Both the plaintiffs and defendants submitted that the tenants were not paying rent properly. This Court found that the legal heirs have right over the income derived from the buildings and tenants cannot be permitted to take advantage of the pendency of litigation between the heirs of Late Jayasankar.

9. In IA 4/23, this Court observed that in order to maintain transparency and accountability, the income from the buildings in plaint schedule properties should be deposited into a specific account. Thus, the IA was allowed and direction was issued to the tenants to deposit rent before the Court to a specified account. The said order in I.A.No.4/2023 was only directive in nature, intended to

facilitate payment of rent, and not punitive. The same was intended to safeguard the interests of all parties until final adjudication.

10. The remedy for nonpayment of rent by tenants ordinarily lies under the provisions of the Rent Control Act. The petitioners plea for treating nonpayment of rent as willful disobedience is not sustainable in the present proceedings. The point is found against the petitioner.

11. **Point No.2:** In view of the finding on point No.1, IA is to be dismissed, without costs.

**In the result, IA is dismissed, without costs.**

Dictated to the typist, typed by her corrected and pronounced by me, in Open Court on this, the 8<sup>th</sup> day of April, 2026.

Sd/-  
LAKSHMY.S,  
SUB JUDGE

Appendix :Nil

Id/-  
SUB JUDGE