

**IN THE COURT OF THE SUB JUDGE, CHERTHALA**  
**Present:- Ms. Lakshmy.S., Sub Judge**  
**Monday 8<sup>th</sup> day of September 2025/ 17<sup>th</sup> Bhadra 1947**

**I.A No. 02/2024 in OS No. 20/2024**

(Filed on : 12.04.2024)

**Petitioner/Plaintiff :-**

Meena Ashokan, aged 64 years, W/o. C.K. Ashokan,  
Charangattu House, Kanichukulangara.P.O,  
Mararikulam North Village, Cherthala Taluk,  
Alappuzha District – 688 544.

**By Adv. G. Beno, Adv. Chaithaya Beno, Adv. N. Girija,  
Adv. Swathi Lakshmi.J, Adv. S. Pournami**

**Respondents/Defendants :-**

1. State of Kerala represented by the Secretary, Revenue Department, First Floor, Collectorate, Alappuzha.
2. The Commissioner, Land Revenue Department, Revenue Divisional Office, Opposite to District Court Complex, SH40, Thodankulangara, Alappuzha – 688013.
3. The District Collector, Collectorate, Beside Zilla Panchayath Office, Civil Station Ward, Alappuzha – 688 001.
4. The Revenue Divisional Officer, Revenue Divisional Office, District Court way Road, Kidangaraparamp, Thondankulangara, Thathampally, Alappuzha, kerala – 688 013.

5. The Tahsildar, Cherthala Taluk, Police Station Road,  
Mini Civil Station, Cherthala, Kerala – 688 524.
6. The Village Officer, Mararikulam, MararikulamNorth .P.O,  
Cherthala, Alappuzha – 688 523.
7. Prasannakumar Kaimal, aged 67 years,  
S/o. Kaimal Naliyattu Veedu, Uttuparambu,  
Karuvatta North, Alappuzha.  
(Retired Revenue Divisional Officer, Alappuzha)
8. Kabeer.M.K, aged 63 years, S/o. Kunjumuhammed,  
Mattathil Veedu, Thricharttukulam .P.O, Cherthala , Alappuzha  
(Retired Tahsildar, Taluk Office, Cherthala)
9. Vijayakumar, aged 64 years, S/o. Krishna Kurup, Chellam Veedu,  
Kanichukulangara.P.O, Cherthala, Alappuzha,  
(Retired Village Officer, Mararikulam North Village, Cherthala)
10. Swaminathan, aged 61 years, S/o. Sivaraman, Challiyil House,  
Kanichukulangara.P.O, Cherthala, Alappuzha.

**R1 to R6 by Addl. Govt. Pleader, Cherthala.**  
**R7 Adv. Rajkamal, R8 By Adv. N. Ratheesh ,**  
**R9 Adv. T.K. Haribalan & R10 By Adv. M.K. Pradeep Kumar.**

This IA coming on for final hearing on 25.08.2025 and the Court on  
08.09.2025 passed the following.

**ORDER**

This petition is filed by the plaintiff under Order XXXIX Rule 1 CPC to restrain the 10<sup>th</sup> respondent/10<sup>th</sup> defendant or his agents from the alienation of the plaint schedule property and from creation of further document in respect of the Sale Certificate No.B 5489/2007 dt.27/06/2009 pending disposal of the suit.

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

Plaint schedule property belonged to the petitioner which was a part and parcel of the total extent of 131cents obtained by virtue of Sale Deed No.1406/2006 dated 25/05/2006 of SRO, Mararikulam. The above said property was offered to the 1<sup>st</sup> respondent as security towards the Abkari business in Cherthala range. While so, during the year 1993-1994, the petitioner failed to remit the Abkari dues (Kisth) for an amount of Rs.13,20,594/- as principal and an interest of Rs.12,13,821/- with a total amount of Rs.25,34,412/- to the 1<sup>st</sup> respondent. So, revenue recovery proceedings were initiated. But from the very beginning of the proceedings, fraud and illegalities were practiced by the respondents No.7 to 9 in collusion with 10<sup>th</sup> respondent who became the successful bidder in the auction. The petitioner was served with sale notice dated 08/02/2007 in Form No.16 of Revenue Recovery Act and the date of sale was fixed on 21/03/2007 for the

sale of plaint schedule properties. It is evident from the notice that the total dues against the licensee shown as Rs.13,20,591/- including interest, collection charge and other expenses. But as on the date of sale on 13/08/2007 the total amount accrued as dues against the licensees was Rs.13,20,594/- as principal and an interest amount of Rs.12,13,821/- with a total amount of Rs.25,34,412/-.

3. Towards the discharge of the said outstanding dues of Rs.25,34,412/- three properties including the plaint schedule property as well as properties of two other co-licensees namely T.D Thampi and Sachithanandan were sold in auction. The fair value fixed for the plaint schedule property was Rs.5,23,000/- per are as per notification dated 05/05/2008 of the Govt. of Kerala. But the 03<sup>rd</sup> respondent conducted the auction and sold the plaint schedule property of 83.50 cents for Rs.13,000/- per cent for a sum total of Rs.10,58,800/- to the 10<sup>th</sup> defendant. The notification of the 4<sup>th</sup> respondent was challenged in Writ Petition No.15203/2007. While the Writ Petition was pending, the disputed sale was conducted. The revision petition pending before the 2<sup>nd</sup> respondent challenging the sale proceedings was dismissed and Writ Petition No.19507/2008 was filed before the Hon'ble High Court whereby an interim order dated 02/07/2008 directed respondents to keep status quo in the proceedings. But when the above Writ Petition was pending, the 04<sup>th</sup> respondent confirmed the sale of the plaint schedule property on 05/12/2008

and issued sale certificate to the 10<sup>th</sup> respondent.

4. The Writ Petition No.15203/2007 was closed without prejudice to the contention of the parties in Writ Petition No.6275/2008. The Hon'ble High Court in that case specifically stated in paragraph 12 of the judgment that the respondents have committed illegalities in confirming the sale and handing over the auction of property on 06/12/2008. Further there was a direction to file representation before the Secretary to Government, Taxes Department and take steps to set aside the sale held on 13/08/2007. The petitioner thereafter filed a complaint before the 2<sup>nd</sup> respondent challenging the order No.B3/3676/96 dt. 01.10.2015 of the 3<sup>rd</sup> respondent which was dismissed by order dt.28.03.2023. After the same, the 10<sup>th</sup> respondent aims to grab the plaint schedule property. The 10<sup>th</sup> respondent has financial and political power to influence authorities to safeguard all his illegalities. To defeat the claim of the petitioner, he is trying to alienate the property. Hence the petition.

5. The 10<sup>th</sup> respondent filed counter affidavit raising the following contentions: The petitioner was a co-license along with five others to conduct arrack shop Nos. 58 to 72 of Cherthala Excise Range during the year 1993-1994. The licensees defaulted to pay the kisth amount and revenue recovery proceedings were initiated against them. The property of the plaintiff having an extent of 33.79ares of land in the Survey No.17/4 of Mararikkulam North

Village was put to sale on 13.08.2007. The property was demarcated and a separate sketch was prepared prior to the auction sale. The sale was preceded by several rounds of litigations before the Hon'ble High Court of Kerala and before various statutory authorities. The 10<sup>th</sup> defendant is the bona fide auction purchaser. The petitioner thereafter filed an application to set aside the auction sale before the District Collector which was dismissed. Then the petitioner filed revision petition before the Commissioner of the Land Revenue under section 83(1) of Kerala Revenue Recovery Act and the same was also dismissed. Against the Revenue Recovery proceedings and the orders of the revenue Authorities, the petitioner filed the W.P(C) 19507/2008 before the Hon'ble High Court. The Hon'ble High Court found no merit in the writ petition and accordingly it is dismissed. Against the judgment dated 05-04-2011 in W.P(c) No.19507/2008, the petitioner filed Writ Appeal No.730/2011 and the same was also dismissed. The SLP (Civil) No.28834/2012 challenging the judgment in the writ appeal also was dismissed and thereby finality has been achieved in this issue. The property is under the absolute ownership and exclusive possession of the 10<sup>th</sup> defendant. Whereas, the petitioner concealing all these material facts, especially in respect demarcation of the property which was sold in auction sale and that it was purchased by the 10<sup>th</sup> defendant, approached the Munsiff Court, Cherthala in O.S.No.88/2012 praying for demarcation of the

property and injunction. The suit was dismissed many times for default of plaintiff. Thereafter, the petitioner filed another suit for injunction for the same relief in O.S.No.88/2012 as O.S. No.828/2014 before Munsiff Court, Cherthala. After elaborate hearing and evidence, O.S No.828/2012 was dismissed with costs. Against the judgment and decree in O.S No.828/2012, A.S.No.99/2016 was filed before this Court. The said appeal was also dismissed. Meanwhile, the petitioner approached the Hon'ble High Court in W.P(c) No.17588/2013, re-agitating the same contentions. However, the Hon'ble High Court not even admitted the writ petition and dismissed the same. The suit as well as injunction application are not maintainable and the petitioner has no prima facie case to get an order as sought for. Hence the petition is to be dismissed.

6. The documents produced from the side of petitioner are marked for the purpose of this application as Exts.A1 to A31 and those from the side of 10<sup>th</sup> respondent as Ext.B1 to B7.

7. Heard and perused the records.

8. The following points arise for consideration.

(i) Whether the petitioner is entitled to get an interim order of injunction, as prayed for?

(ii) Order as to costs?

9. **Point No.1:** -

The above suit is for cancellation of Sale Certificate of the plaint schedule property in favour of the 10<sup>th</sup> defendant as a result of fraud and foul

play and declaration of the same as void as well as for injunction to restrain the 10<sup>th</sup> defendant from alienating and creating further document in respect of the plaint schedule property. The present application is for a temporary injunction to preserve the status till the disposal of the suit.

10. The plaint schedule property comprises 83.50 cents situated in Mararikulam North Village, originally forming part of a larger extent of 131 cents registered in the name of the petitioner. The present dispute arises from the issuance of a Sale Certificate in favour of the 10th defendant, who acquired the property through auction proceedings initiated under the Revenue Recovery Act. These proceedings were initiated due to the petitioner's failure to remit Abkari arrears (Kisth) amounting to ₹25,34,412 during the financial year 1993–94. To recover the said amount, the authorities proceeded against the plaint schedule property, which culminated in the auction sale of the property to the 10th defendant. The legality and validity of this sale are now under challenge in the present case.

11. The auction sale by which the 10<sup>th</sup> defendant purchased the plaint schedule property was held as early as on 13/08/2007. The affidavits submitted by both the petitioner and the 10th respondent reveal a prolonged sequence of litigation arising from the revenue recovery proceedings. From the issuance of the initial statutory notice through to the auction stage, the petitioner has

persistently challenged the recovery process by approaching various authorities. Exts.A1 to A31 and Ext.B1 to B7 records presented by both parties which include different complaints, Writ Petitions before the Hon'ble High Court, and a Special Leave Petition before the Hon'ble Supreme Court, would show that the petitioner has been unsuccessful in securing any favourable orders yet.

12. The petitioner does not dispute the existence of arrears in connection with the issuance of the Abkari license, nor does she challenge the legality of the revenue recovery proceedings. Her sole grievance pertains to the manner in which the auction sale was conducted. She alleges that the sale of the plaint schedule property in favour of the 10<sup>th</sup> defendant was tainted by fraud and illegality. The recovery of dues owed to the Government is governed by statutory provisions, and auction sale of property must strictly adhere to the procedures prescribed by law. These procedures are subject to judicial scrutiny, and any aggrieved party is entitled to challenge them. In this case, the petitioner has already availed herself of the statutory remedies throughout the proceedings but has been unsuccessful in preventing the auction sale.

13. The statutory formalities behind the issuance of the Sale Certificate, as well as the procedure adopted, were duly considered by the statutory authorities upon the complaint filed by the petitioner. The issues

raised by the petitioner warrant adjudication only after a detailed appreciation of evidence. The decisions rendered by the Hon'ble High Court and other statutory bodies have to be carefully examined to decide the very maintainability of the present suit itself. It is pertinent to note that the Sale Certificate was issued as early as 2007, during which time multiple litigations were already ongoing between the parties. The 10th respondent had actively participated in all such proceedings, and therefore, the petitioner's apprehension regarding alienation of the property appears to be unfounded. At this juncture, the petitioner has failed to establish a prima facie case warranting the grant of interim injunction. Hence, the point is found against the petitioner.

14. **Point No.2:** - In view of the finding on point No.1, the IA is to be dismissed, with costs.

**In the result, I.A. is dismissed, with costs.**

Dictated to the Confidential Assistant, typed by her directly to the Computer, corrected and pronounced by me in open court on this the 08<sup>th</sup> day of September, 2025.

Sd/-  
**LAKSHMY.S,**  
**SUB JUDGE.**

Appendix:-

Exhibits for Petitioner/Plaintiff:-

A1	27.06.2009	Copy of Certificate of sale of immovable property from Revenue Divisional Office, Alappuzha.
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A2	02.05.1988	Certified copy of release deed No. 1975/88.
A3	20.02.2001	Copy of Attachment intimation from Taluk Office, Cherthala.
A4	27.06.2007	Copy of Sale Notice from Taluk Office, Cherthala.
A5	10.02.2014	Copy of Report from Taluk Office, Cherthala.
A6	06.01.2007	Copy of Report from Village Office Mararikulam.
A7	01.01.2007	Copy of Mahazar
A8	23.12.2008	Copy of letter
A9	17.01.2009	Copy of letter from Taluk Office, Cherthala under RTI Act.
A10	17.10.2009	Copy of letter from Taluk Office, Cherthala under RTI Act.
A11	27.03.2023	Letter from Sub Collector Office, Alappuzha under RTI Act.
A12	21.01.2009	Copy of Report of RDO
A13	-	Copy of Schedule
A14	-	Copy of form of affidavit of Meena Ashokan and form of solvency certificate from Taluk Officer, Cherthala.
A15	17.03.2023	Copy of letter from Sub Collector office, Alappuzha.
A16	17.09.2020	Copy of Lawyers report

A17	09.09.2021	Copy of acknowledgment receipt of petition from Mararikulam Police station.
A18	26.03.2024	Copy of receipt from District Police Office, Alappuzha.
A19	05.04.2011	Copy of Judgment from Hon'ble High Court of Kerala, in WPC. No. 19507/2008
A20	14.06.2011	Copy of order from Hon'ble High Court of Kerala, in WA. No. 730/11.
A21	03.03.2009	Copy of Judgment from Hon'ble High Court of Kerala, in WA.No. 305/2009
A22	05.12.2008	Report from Revenue Divisional Office , Alappuzha
A23	02.04.2009	Copy of Judgment from Hon'ble High Court of Kerala, in WP(c).No. 15203/2007
A24	03.04.2003	Copy of Order from Hon'ble High Court of Kerala, in CMP 19804/2003 in OP No. 11558/2003
A25	14.06.2013	Copy of Order from Hon'ble High Court of Kerala, in WA 730/2011
A26	11.08.2021	Copy of petition filed by Meena Ashokan before the Government, Revenue Department, Thiruvananthapuram.
A27	28.03.2023	Copy of Proceedings from Land Revenue commissioner's Office, Thirivanthapuram.
A28	02.04.2009	Copy of Judgment from Hon'ble High Court of Kerala, in WP(c).No. 6274/2008

A29	15.07.2013	Copy of Order from Hon'ble High Court of Kerala, in WP(c).No. 17588/2013.
A30	10.08.2022	Copy of Encumberence Certiticate from SRO, Mararikulam.
A31	-	Copy of information issued by Tahsildar

Exhibits for Respondents/ Defendants:-

B1		Copy of memorandum of Appeal filed before Hon'ble High Court of Kerala, Copy of the Certified copy of Judgment. WP(c) No. 19507/2008 of Hon'ble High Court of Kerala, Copy of the free copy of counter affidavit filed by 1 <sup>st</sup> Respondent in WP(c) No. 19507/2008 before Hon'ble High Court of Kerala, Copy of the true copy of counter affidavit filed by 4 <sup>th</sup> respondent, copy of the true copy of the additional counter affidavit filed by the 4 <sup>th</sup> respondent, copy of the true copy of replay affidavit filed before Hon'ble High Court of Kerala.
B2	20.07.2011	Certified copy of Judgment in writ appeal No. 730/2013 of the Hon'ble High Court of Kerala.
B3	05.04.2011	Certified copy of Judgment in WP(c) No. 19507/2008 of the Hon'ble High Court of Kerala.

B4	12.10.2009	Certified copy of Judgment in WA No. 1860/2009 of Hon'ble High Court of Kerala.
B5	15.07.2013	Certified copy of Judgment in WP(C) No. 17588/13 of Honble High Court of Kerala.
B6	01.01.2021	Certified copy of Judgment in AS 99/2016 of the Subordinate Judge's Court, Cherthala.
B7	29.05.2024	Land tax Receipt No. KL04021106218/2024 of Mararikulam North Village Office.

Id/-  
**SUB JUDGE**