

IN THE COURT OF THE ADDITIONAL MUNSIFF, CHERTHALA

Present: Sri. Mahesh.M., Additional Munsiff

Thursday, the 19th day of February, 2026/ 30th Magham, 1947.

EA No. 02/2025 in EP No.88/2015 in File No.101/2011

(Filed on 10.12.2025)

Petitioner/Decree Holder :-

Cherthala Co-operative Urban Society, Ltd. No.2655.

By Adv. Hormis Abraham

Cr. Petitioners/Judgment Debtors:-

1. Santhamma, W/o Surendran,
Uttuparambil Veedu, Pattanakkadu Muri,
Pattanakkad Village, Cherthala Taluk.
2. S.Resh, S/o Surendran,
Uttuparambil Veedu, Pattanakkadu Muri,
Pattanakkad Village, Cherthala Taluk.

By Adv. John Varghese

This Execution application having been finally heard on 07.01.2026 and the court on 19.02.2026 passed the following:-

ORDER

This is a petition filed by decree holder for returning the original award to rectify a mistake.

2. Petition averments in brief are as follows:-

The petitioner is the counsel appearing for the decree-holder in the

above case. The execution petition has been filed for realisation of the amount awarded to the Society under Award No. 101/2011 issued by the Office of the Assistant Registrar of Co-operative Societies, Cherthala. Along with the above execution petition, the original award issued from the said office has been produced. In the cause title on the first page of the award, the name of the decree-holder Society was inadvertently omitted by the said office. In order to enable the decree-holder to have the name of the Society duly incorporated in the award and to re-present the same, it is necessary that the original award be returned to the decree-holder. Hence this petition is filed seeking return of the original award for the aforesaid purpose.

3. The respondents filed objection as follows:-

The petition is not maintainable either under law or facts. The petition and the allegations raised in the affidavit can no way be considered by this court at this juncture as the decree is under challenge. In this respect, it is made clear that challenge was made over the deemed decree, produced in this case by this Judgment Debtor. As per the contentions raised by the counter petitioner, it was brought to the notice of the Court that the said decree does not partake the character of a decree under Order XX Rule 6 of C.P.C. Several citations under Order XX Rule 6 was relied on with regard to the said aspect by the Judgment debtor on a petition filed for hearing the maintainability of the execution petition and the predecessor in interest of this Court negating all those contentions, dismissed the petition against which C. R. P. 82/2024 was filed before the Hon'ble High Court and the same is even now pending. The main contention in the said C. R. P. 82/2024 is the maintainability of the deemed decree filed in this case and thereafter, the present petition is filed for correcting the decree which will establish that the contention that the decree is unexecutable. Soon after receiving the correction petition, the copy of the same

is produced before the Hon'ble High Court and the petitioner is seeking for an early disposal of the matter and as such a petition if taken for adjudication would prejudice the interest of Judgment Debtors at this juncture and as such the petition is liable to be dismissed by this Court. Under such circumstances, it is prayed to keep the matter in abeyance until the matter is finally disposed of by the Hon'ble High Court.

4. Heard both sides. Perused the records.

5. The following points are raised for determination.

i) Whether the petition is allowable?

ii) What is the order?

6. Point No.1 –

The case of the petitioner/decreed holder is that, in the original award produced in this case, the name of the decreed holder society was not mentioned. According to the decreed holder, the judgment debtors are attempting to exploit this technical error by contending that the award is not executable. Consequently, the decreed holder seeks the return of the original award for rectification of the said error. On the other hand, the respondents/judgment debtors argue that they have already challenged the maintainability of the execution petition before this court, and that challenge was dismissed. They have now assailed the order before the Hon'ble High Court, where the matter is still pending. Therefore, the judgment debtors contend that the present petition should be kept in abeyance until the Hon'ble High Court disposes of the matter on merits. On a careful consideration of the rival contentions advanced by both sides, it is evident that the judgment debtors do not dispute that the award in question pertains to them. It is further pertinent to note that the award contains the names and addresses of the judgment debtors. Moreover, the judgment debtors have not raised any

contention that no liability subsists against them in relation to the decree holder society. Thus, the liability in this case stands admitted by the judgment debtors. The sole contention urged by the judgment debtors is that the award does not contain the name of the decree holder. However, such a contention, in the considered view of this Court, does not render the award non-executable. As already observed, the liability is not in dispute. The only defect pointed out is the absence of the decree holder's name in the award. The duty of an executing court is to enforce the decree by all lawful means. This Court has already found that the award is executable and has passed an order to that effect. Therefore, the question of executability does not arise afresh. The only issue that remains for consideration is whether the award can be returned for correction. In this regard, it is well settled that an award partakes the nature of a decree. Consequently, a defect or mistake in an award can be cured in the same manner as a defect in a decree is rectified. This Court is of the view that the absence of the decree holder's name in the award is a curable defect, which can be remedied by the authority that passed it. For such rectification, the award necessarily has to be returned. Technicalities should not be permitted to defeat the executability of a decree, particularly when it involves public money advanced by cooperative societies. The larger interest of justice requires that such defects be cured without allowing judgment debtors to evade their admitted liability on mere technical grounds. Accordingly, this Court holds that the award shall be returned to the competent authority for rectification of the defect noted above. Hence this point is found in favour of the petitioner.

7. Point No.2 -

In the result, the E.A. is allowed as follows:-

The office is directed to return the original award along with the

certificate to the decree holder. The decree holder shall rectify the defects and re-submit the award along with the certificate as early as possible.

(Dictated to the Confidential Asst. transcribed and typed by her, corrected by me and pronounced in open court this the 19th day of February, 2026.)

Sd/-
MAHESH.M.,
ADDITIONAL MUNSIFF

APPENDIX:- NIL

Sd/-
ADDITIONAL MUNSIFF