

IN THE COURT OF THE MUNSIF, HARIPAD.
Present: Smt. Maneesha K Bhadran, Munsiff
Tuesday 7th April, 2026/17th Chaithram 1948

EP. No.06/2026 in OS.91/2016

Filed on 22.01.2026

Decree Holders:-

1. Mannarasala Nagaraja Swamikal
Thulamparambu Naduvathu Muriyil,
Haripad Village, Karthikappally Taluk.
2. Subrahmaniyan Namboothiri @ Vasuki Sreedevi,
(Died) Aged 80 years, S/o Mannarasala Illathu
Vasudevan Namboothiri, Thulamparambu
Naduvathu Muriyil, Haripad Village,
For Mannarasala Nagaraja Swamikal.
3. Mannarasala Illathu Narayanan Namboothiri,
Aged 77 Years, Manger, Mannarasala Sree
Nagaraja Kshethram, Thulamparambu
Naduvathu Muriyil, Haripad Village, (Died)
4. Parameswaran Namboothiri @ Vasuki Sreedevi,
aged 80 years, S/o Mannarasala Illathu
Kesavan Namboothiri, Thulamparambu
Naduvathu Muriyil, Haripad Village,
5. Jayakumar, Aged 76 years,
S/o Mannarasala Illathu Govindan Namboothiri,
Thulamparambu Naduvathu Muriyil,
Haripad Village,

By Adv.K.V. Gopalakrishnapillai

Judgment Debtors:-

1. Sujatha, aged 56 years,
D/o Vasudevan, Achithan Parambu Veettil,
Thulamparambu Naduvathu Muriyil,
Haripad Village from Chengara Veettil,
Thekkekkara Village, Mavelikkara Taluk.
2. Sivapriyan, aged 75 years,
S/o Achuthan Parambil Padmanabhan,
Kunnel Padeettathil Veettil,
Kappil Mekku Muriyil, Kayamkulam Village,

BY Adv. Omar Salim (JD1)

This execution petition having been finally heard on 07.04.2026 and the court on same day passed the following order:-

ORDER

Petition to Execute Decree dated 27.09.2019 confirmed in AS 114/2019 of Hon'ble Additional District Court-III, Mavelikara.

2. The contention of decree holder is that judgment debtors are to be evicted from decree schedule property by the process of this Court. 1st Judgment debtor filed objection contending that the first decree holder has no locus standi to represent the Nagaraja Swamikal since they were not impleaded in the suit as representative of the first decree holder. Order XXII Rule 10 or Section 146 of CPC is not complied and he is not impleaded duly. The decree is null, void and is inexecutable. Impleadment of Jayakumar is not as per law and the decree schedule property is not capable of identification and is ambiguous. Judgment debtors preferred RSA 151/2026 before Hon'ble High Court of Kerala and the same is pending and above petition is to be dismissed.

3. Heard both sides.

4. The following point arise for determination:-

Whether the execution petition is allowable?

5. **The point:-** As per the decree, Dated 27/09/2019 it is held *"It is hereby declared that plaintiff's court title and possession of plaintiff schedule property. The plaintiffs are entitled to recover the vacant possession of the*

plaint schedule property from the first defendant. The first defendant is directed to put the plaintiffs in possession of plaint schedule property and the buildings situated thereon within a period of 3 months, failing which plaintiffs are entitled to evict the first defendant through the process of this court. Permanent prohibitory injunction is granted restraining the first defendant from causing any damage to the residential building situated in plaint schedule property and committing any waste in plaint schedule property including cutting and selling the trees standing thereon and changing the present condition of the residential building situated thereon. The parties are directed to suffer their respective costs of the suit".

6. The contention of 1st judgment debtor is that first decree holder is not a party to the decree dated 27.09.2019 and is not competent to represent the Nagraja Swamikal and execution petition is liable to be dismissed. Reliance is placed upon the dictum of Hon'ble Supreme Court in **Amit Arya (Dr.) v Kamlesh Kumari 2025 KHC 7695** Hon'ble High Court of Kerala in **Kunhayammed v State of Kerala (2000) 6SCC 359** wherein it is held that the trial court decree merges with the final decree of superior Court. It is further contented that executing Court cannot go behind the decree.

7. In the case in hand, It is pertinent to note that the said Jayakumar is not a party to the decree dated 27.09.2019 and he was impleaded during the proceedings before first appellate Court. However said impleadment was not challenged by the Judgment debtors till the second appeal, which was

dismissed on 24/03/2026. In fact 1st Judgment debtor had filed the second appeal against the said Jayakumar. 1st Judgment debtor is now taking the contention that the impleadment is void. The same is a flimsy argument to resist the execution and I find no merit in the same. On perusing the decree schedule property, I am satisfied that the same is capable of identification as per the schedule and boundaries therein. Accordingly, I find no merit in the contention of 1st Judgment debtor that the decree schedule property is not capable of identification. I am not inclined to consider the objection of 1st judgment debtor to stop the execution proceedings. The same is only a dilatory tactic of 1st judgment debtor to delay to execution of the decree.

In the result, Amin is directed to effect delivery of decree schedule property.

Dictated to the Confidential Assistant, typed by her, corrected by me and pronounced in Open Court on this the 07th day of April, 2026.

Sd/-

Maneesha. K. Bhadran

Munsiff

Appendix:- Nil

Id/-

Munsiff

