**IN THE COURT OF THE MUNSIFF, HARIPAD**
**Present: Smt. Maneesha K. Bhadran Munsiff**
**Wednesday the 8th day of April 2026/18th Chaithram 1948**

**IA No.2/2026 in OS 57/2026**
(Filed on 16.02.2026

**Petitioner/Plaintiff:**

Praveen aged 41 years,
S/o Peethamparan,
K.P.Sadanam,
Muthukulam North,Muthukulam Village,
Karthikappally Taluk,
Alappuzha District,
Represented by Power of Attorney Holder
Sreedevi aged 33 years,
W/o Praveen, K.P.Sadanam,
Muthukulam North,Muthukulam Village,
Haripad, Alappuzha.

**(By Adv. Noushad.S)**

**Respondetns/Defendants :**

1. Principal Agent,
Mammoottil Agency, Muthukulam,
Sumod.K aged 41 years,
S/o KrishnanKuttty,
Mammoottil Padeettathil,
Muthukulam.P.O, Muthukulam Village,
Karthikappally Taluk

2. Agent, Mammoottil Agency,
Muthukulam.
KrishnanKuttty aged 75 years,
Mammoottil Padeettathil,
Muthukulam.P.O, Muthukulam Village,
Karthikappally Taluk.

3. Agent, Mammoottil Agency,
Muthukulam.
Sukumari, W/o Krishnan Kutty,
Mammoottil Padeettathil,Muthukulam.P.O,
Muthukulam Village,
Karthikappally Taluk

**(D2, D3 By Adv. Krishna Kishore)**

*This suit having been finally heard on 01.04.2026 and the court on 08.04.2026 passed the following.*

**O R D E R**

Petition filed under Order XXXVIII Rule 5 of CPC to attach the property of 3rd respondent before judgment.

2. **Averments in the petition in brief are as follows:** Suit is one for realization of money. Plaintiff is employed abroad and the suit is filed by his power of attorney. Defendants are the agents of Mammottil Agency supplying mineral water by name 'Green Valley' in the godown of the property of 3rd respondent. 1st respondent is the principal agent. Respondents are jointly liable for all the transactions of the agency. Respondents approached petitioner to stand as surety for chitty in KSFE Muthukulam branch. First respondent had auctioned a chitty with a sala of ₹10,00,000/- for securing ₹5,00,000/- on 11.05.2023 to invest in the business of the agency. Accordingly, plaintiff surrendered his policy certificates with Life Insurance Corporation, Kayamkulam for ₹5,00,000/- and ₹10,00,000/- with a surrender value of ₹4,06,599/- and

₹8,13,198/- respectively. The above security was given to respondents for the loan availed by first respondent for the agency. Respondents jointly agreed to clear the liability with KSFE and return the policy certificates to petitioner. But first respondent failed to remit the loan amount and petitioner was forced to clear the liability with KSFE to the tune of ₹6,56,445/-. Respondents refused the demand of petitioner to repay the amount due to KSFE and return the policy certificates. It is reliably learned from one Mr.Thulasidharan that respondents are attempting to alienate the property of third respondent to defeat the interest of the petitioner. Hence the above petition.

3. First respondent has not filed any objection.

4. Second and third respondents filed objection stiffly opposing the above petition. It is contended that second and third respondents did not start the agency for supplying mineral water by name *Green Valley* and are not involved with the agency conducted by first respondent, their son. They have no connection with the liability of first respondent with petitioner and are not parties and aware of his business transactions. They have no liability towards petitioner with the business transactions of first respondent of the agency by name Mamoottil Agency, Muthukulam. Second and third respondents have not signed or executed any documents towards the liability of first respondent with petitioner for availing chitty amount from KSFE, Muthukulam branch. Second and third respondents have not received the policy certificates of petitioner and it

is denied that they are jointly liable to petitioner. It is denied that they demanded petitioner to surrender his policy certificates for availing the chitty amount. Plaintiff is a stranger to them. First respondent due to his imprudent business dealings has incurred financial liability and has left the family home. Petitioner can proceed against first respondent and cannot claim any relief against second and third respondents who are not privy to the transaction between them. Second and third respondents have sold the property to one mini before the attachment. Hence the petition be dismissed.

4. The points that arise for consideration are as follows:-

1. Whether the petitioner is entitled for an order of attachment before judgment as prayed for ?

2. Whether the petition is allowable?

5. Exts. A1 to A3 were marked from the side of petitioner. Ext.B1 was marked from the side of respondents.

6. As per order dated 16.02.2026, conditional order of attachment was passed and respondents was directed to furnish security to the tune of ₹7,27,638/-.

7. Heard both sides.

8. **Point Nos.1 and 2** :- Suit is for realization of ₹7,27,638/- with interest and costs from respondents. The static contention of petitioner is that

respondents for the business needs of their agency secured his policy certificates for availing the chitty amount and defaulted in repayment. Petitioner incurred a liability of ₹ 6,56,445/- with KSFE, Muthukulam to release his policy certificates. Second and third respondents on the other hand vehemently content that there is no transaction with petitioner and they are not privy to the transaction of petitioner with first respondent and the attachment is to be vacated.

9. The purpose of an order under Order XXXVIII Rule 5 is to secure sufficient security for the execution of any prospective decree that may be passed in favour of the petitioner. At this stage, there is no reason to make any finding regarding the genuineness of the plaint claim or about the validity of the documents relied on by the petitioner. The claim of the respondents can also be considered at appropriate stage during trial of the suit. The suit was filed for realization of money allegedly due from respondents. Petitioner in his affidavit has specifically stated that he got reliable information that the respondents are trying to alienate their assets and to leave the jurisdiction of the Court. According to second and third respondents, the property is already alienated. The affidavit of petitioner cannot be considered as vague and without bonafides. Even otherwise, if the respondents alienates their assets or leaves the jurisdiction of the Court, it would adversely affect the execution of the decree that may be passed in favour of the petitioner. Though second and third respondents would

contend that the property is already sold to one mini, nothing is brought forth to substantiate the same other than a mere assertion in the objection. Neither the copy of the sale deed nor its number is furnished. Here the contention of petitioner is that the policy certificate was furnished to respondents upon their request. Even though the loan is not in the name of second and third respondents, they cannot escape from the liability as it was secured as per their request. In light of the about discussion, I am prima facie satisfied that respondents with intent to defeat the execution of the decree that might be passed against them is trying to dispose their property. Upon hearing both sides and perusing the affidavit along with the application, this court is satisfied that the order of attachment is to be passed. Hence these points are found in favour of the petitioner.

**In the result,** petition is allowed.

(i) Order of conditional attachment dated 16.02.2026 is made absolute.

(ii) There is no order as to cost.

*Dictated to the Confdl. Asst., typed by her, corrected and pronounced by me in open court on this the 08th day of April, 2026.*

Sd/-
**Maneesha K. Bhadran**
**Munsiff**

**APPENDIX:**

Exhibits for the Petitioner

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| A1 | 03.10.2025 | Power of Attorney. |

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| A2 | 04.10.2025 | Payment voucher issued by K.S.F.E., Muthukulam Branch. |
| A3 | 11.05.2023 | Personal ledger issued by K.S.F.E, Muthukulam Branch. |

Exhibits for Respondent

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| B1. | 23.04.2025 | Tax receipt No.KL04041303460/2025, Issued by Muthukulam Village Officer. |

Id/-
**Munsiff**