

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

**Present: Smt. Veena.V.S, Sub Judge**

**Friday, 10<sup>th</sup> October 2025 /18<sup>th</sup> Aswina 1947**

**IA No.8/2025 in OS 15/2025**

(Filed on:03.06.2025)

**[Filed as IA Op (Ind)1/2021 in OS 10/2019 of Sub Court, Mavelikara on  
10.11.2021]**

**Petitioners/Plaintiff** :- Anilkumar.K, aged 56 years,  
S/o. Late Karuakaran,  
Pooja Residence, Kizhunna.P.O,  
Kizhunna Desam, Eadakkad Amsam/Village,  
Kannur Taluk, Kannur District,  
Kerala, India doing business in Muscat,  
Sultanate of Oman, Represented by  
General Power of Attorney Sona Jayaram.K,  
W/o. Prahesh.T, Advocate residing at  
'Sayoora', Kizhunna.P.O,  
Kizhunna Desam, Eadakkad Amsam/Village,  
Kannur Taluk, Kannur District, Kerala

***(By Adv.Maranadu G Krishnakumar)***

**Respondents/Defendants :-** 1. Roopesh.O.B,  
S/o. Nanu Bhasuran, aged 44 years,  
Nirmalyam, Pilapuzha, Haripad,  
Alappuzha District, Kerala.

2. The State of Kerala  
Represented by District Collector,  
Alappuzha.

***(By Adv.P.P.Stella, Adv. Prasanth.S.Pillai , Adv. Rajalekshmi.K.S & Adv. Bijimon. C.Chериан)***

This Petition having been finally heard on 17.09.2025 and this court on 10.10.2025 passed the following

**ORDER**

Petition averments in brief are as follows:

The petitioner is the plaintiff in the above suit which is for realization of money. The petitioner alleged that the petitioner has been doing business in Muscat for the last 3 decades. When the registered company named M/s. Desert Technologies LLC run by the defendant was about to windup, on the request of the defendant, the plaintiff purchased the major shares of the company, and thereby the defendant bestowed the plaintiff of the responsibility of the managing directorship of the company. The defendant/1<sup>st</sup> respondent transferred the major shares of the company by fastening liabilities of the double of the total value of the company which now the plaintiff is burdened to clear as the Managing Director of the company and several consumer complaint cases were filed by 3<sup>rd</sup> parties against the petitioner as the Managing Director of the said company. Meanwhile, the plaintiff gave the defendant a loan of 2 crores for investing in

cinematographic production by executing a written agreement in which he agreed to repay the loan amount within 1 year. He executed 2 cheque for 1 crore each and a memorandum of understanding in which he agreed to repay the said amount within a period of 2 years. On expiry of the stipulated period the plaintiff presented the cheque which was dishonoured showing the reason payment stopped by the drawer. When the defendant failed to repay the said amount the plaintiff instituted the money suit against the defendant and he filed 1/10<sup>th</sup> court fee at that time. But after the filing of the suit the 1<sup>st</sup> defendant/1<sup>st</sup> respondent has done all kinds of troubles in the functioning of the business of the plaintiff in Oman by causing false litigation through his agents. So he was compelled to stop his business and he has been staying in Kerala for the last two years without any source of income for his livelihood. The petitioner owns immovable properties as mentioned in the schedule A to D and the movable properties as mentioned in the schedule E. He gets monthly income of Rs. 6,000/- (Rupees six thousand only) from the shop rooms in A schedule property and his total income derived from his properties is Rs. 36,000/- (Rupees Thirty six thousand only) and the said income is insufficient for his livelihood. Hence he is unable to remit the balance court fee and the legal benefit fund fee in the lumpsum and thereby the petition is filed with a prayer to exempt him from payment of balance court fee of Rs. 8,43,195/- and the legal benefit fee of Rs.1,96,635/- and to allow him to further prosecute the suit as an indigent person.

2. The 1<sup>st</sup> respondent filed objection by contending that the petition is not maintainable either in law or on facts. The petitioner is a fatcat having business both in India and abroad worth crores. So the petition is filed only on experimental basis. He has shown a few properties out of his entire assets in the petition. Further he owns property in the name of his benami and he is the shareholder of several companies. He suppressed the vehicle in his name. The 50% share of the company named Desert Technologies LLC is still in the name of the petitioner and the said share worth 2 ¼ crores. He owns 3 companies at Muscat. The case was registered against the petitioner in Oman when he transferred 2½ crores from his company named Desert Technologies without the knowledge of his partner. He has sufficient means to pay the court fee from his income. He did not disclose his entire asset in the petition. So he is not entitled to get the relief as prayed for.

3. The Additional Government Pleader filed report of the District Collector Kannur that the petitioner owned 9.81 Ares of property in Resurvey No. 43/117, 0.81 Ares of property in Resurvey No. 43/115 and 2.53 Ares of property in Resurvey No. 38/118, 119. Further he owned seven shop rooms out of which three of the shop rooms were leased out and he derived Rs. 1,08,000/- (Rupees one lakh and eight thousand only) per annum from the shop room. He owned a residential house with the extent of 491.99 metre sq. It was further reported that

he sold out 3.40 Ares of property in Resurvey No. 43/116, 117 on 15-04-2021. As per the report dated 19-11-2022 no transaction of movable and immovable properties of the petitioner was done within 2 months.

4. From the petition averments and contentions in the objection the following points were raised for consideration.

1. *Whether the petitioner has sufficient means to pay balance court fee and legal benefit fund as mentioned in the plaint?*

2. *Reliefs and costs?*

5. From the side of the petitioner Exbt. A1 document was marked. The petitioner was examined as PW1. Exbt. B1 was marked from the side of the 1<sup>st</sup> respondent.

6. Heard both sides. Perused the records.

**Point Nos. 1 and 2 :-**

7. The specific allegation raised by the petitioner is that after the institution of the suit, he was constrained to stop his business in Oman due to the false litigation through the agent of the 1<sup>st</sup> respondent/defendant by using false documents created by him in the name of the company and resultantly he became indigent person and is deprived of any means of income and livelihood. But the petitioner did not adduce any documents to substantiate his allegations.

8. When the petitioner was examined as PW1, he filed proof affidavit by reiterating the petition averments. During cross examination he deposed that he is

the nephew of Sudhakaran who was the KPCC President. He had own business at Muscat. He purchased 50% share in Desert Technologies LLC at Muscat and then after he became the Managing Director of the said company. Now the said company is not in existence. According to him, even though he ran two other companies named John World Nation Trade and Company and Muhammed Al Bahrain Trading Company, at present he had no connection with the said companies and the latter company has been still functioning through the person appointed by its sponsor. When the learned counsel for the 1<sup>st</sup> respondent showed Exbt. B1 Commercial Registration Certificate of Muhammed Al Bahrain Trading Company, he deposed that he was only an employee of the said company and he could not go for work to the said company after 2019. Still he is facing travel ban in Oman. But he did not ready to produce any documents to prove the fact that he was merely an employee in the company mentioned in Exbt. B1 document and he could not work at Muscat due to travel ban and he does not derive any income from the said companies at Muscat.

9. The petitioner produced his passport which was marked as Exbt. A1 series. His recent passport shows that till the month of June 2019 he was a frequent traveller from India to Oman. But this document is not sufficient to prove the facts that he is facing travel ban at Oman or he has no income from the companies run by him at abroad or his company is not functioning now.

10. The petitioner shows his immovable properties in A to D schedule of the petition. Comparing the same with the report obtained from the Revenue authorities, it can be seen that all of his properties were not mentioned in the report. According to the petitioner, he owns 2.53 Ares in Resurvey No. 43/115 which was shown in the report as 0.81 Ares only. Further as per the petition the petitioner owns 0.61 Ares in Resurvey No. 36/5B which was not shown in the report. So the report filed by the Revenue authorities cannot be considered as sole basis to adjudicate the indigency of the petitioner.

11. As per the report filed by the Revenue authorities the petitioner earns Rs. 9,000/- (Rupees Nine thousand only) per month as rent from the three shop rooms that he leased out. But according to the petitioner he gets only Rs. 6,000/- per month as rent from the said three shop rooms. But he did not ready to produce the rent deed or rent receipts so as to substantiate his allegation even though the said documents are easily available and best piece of evidence to prove his allegation.

12. It is explicit from the report of the revenue authorities that the petitioner transferred one of his immovable properties after the institution of the present suit but before filing the present petition seeking exemption from remitting Balance Court Fee and Legal Benefit Fund. When PW1 was cross examined on that aspect he admitted that the said transfer was on 15-04-2021 and the court directed him to remit Balance Court Fee on 29-03-2021. According to

him, it was sold for the education purpose of his daughter. But he did not ready to reveal the quantum of consideration he received from the said sale and the amount he spent for the educational purpose of his daughter. He did not ready to produce even a scrap of paper to prove that the entire amount he received from the sale of his immovable property during the pendency of this suit was used for the education purpose of his daughter. It casts a serious doubt upon the genuinity of the case of the petitioner.

13. It is relevant to note that only during cross examination he revealed the fact that he maintained two accounts in two different banks in Kerala. He deposed that he maintained account in SBI Thottada Branch, Kannur and Bank of Muscat Rubi branch. Even though he admitted to produce the account details of his bank account he did not produce the same before the court. He did not give any explanation why he failed to produce his bank account details or passbook so as to prove his recent financial transaction and his present income. If he produced the bank account details and passbooks it would be the best piece of evidence to prove or disprove the allegations in the petition. So a legitimate presumption can be drawn U/S. 114 (g) of The Indian Evidence Act 1872 that the evidence which could be and is not produced, would if produced, be unfavourable to the person who withholds it. Here, the bank account details and the passbook are the documents which could be easily procured by the petitioner. Further he did not reveal his bank account details in the indigent petition. He could not give any

explanation why he suppressed his bank account details in the petition. It is pertinent to note that even though the petitioner made amendment by changing the extent and survey number of his immovable properties and by adding the details of movable properties, he did not care to include the details of his bank account. It cannot be considered as mere a bonafide omission. If the said omission was not intentional, he would have produced the bank account details at later stage as he admitted in box when he was examined as PW1. So it can be unequivocally concluded that the petitioner deliberately suppressed his bank account details in the indigent petition and purposely avoided to furnish his bank account details during enquiry.

14. In **Chellammal v. Muthulekshmi Ammal reported in AIR 1945 Mad. 296** it was held that utmost good faith is required for the petitioner in the matter of disclosure of his assets and an intentional departure from this rule must result in the dismissal of his indigent application. Further **N.N Raju v. R.C Appna reported in AIR 1977 AP. 15**, the Hon'ble High Court of Andrapradesh viewed that non disclosure of an asset entitles dismissal even if the non disclosed asset is not sufficient to pay court fees. The above dictum are squarely applicable in the present case.

15. From the above discussion I hold that the petitioner did not disclose all of his present assets and income before the court. He suppressed his bank account details in the petition even after he amended his petition for incorporating his

movable properties in the petition. He did not ready to produce his passbook, bank account statements or even rent deed or rent receipt so as to prove his present income even though he admitted to produce the same before the court when he was examined as PW1. So I hold that the petition lacks bonafide and the omission from the side of the petitioner is deliberate which resulted in the dismissal of his application.

In the result the petition is dismissed. No order as to costs. The petitioner is directed to remit Balance Court Fee and Legal Benefit Fee within 1 month from the date of the order of the petition.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open court on this day, 10<sup>th</sup> October 2025)

Sd/-  
**Veena. V.S**  
**Sub Judge**

**Appendix :**

**Witness from the side of Petitioner:-**

PW1            -            31.01.2023            -            Anilkumar.K

**Exhibits from the side of Petitioner:-**

A1 series       -            23.02.2023            -            Passport

**itness from the side of Respondent:-**

NIL

**Exhibits from the side of Respondent:-**

B1 - Commercial Registration Certificate.

Id/-  
**Sub Judge**

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**Sub Judge**