

IN THE COURT OF THE SUB JUDGE, CHENGANNUR

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

Tuesday, the 13th January 2026/23rd Pousha 1947

IA No. 03/2024 in OS 16/2025

(Filed on 22.01.2024)

Petitioner/Defendant :- Anilkumar.K, aged 59 years,
S/o. Karunakaran, residing at Pooja Residence,
Kizhunna.P.O, Eadakkad Village,
Kannur District.

(By Adv.Maranadu .G.Krishnakumar)

Counter Petitioner/Plaintiff :- Roopesh.O.B, aged 52 years,
S/o. Omana, residing at Nirmalyam House,
Pilapuzha, Haripad, Karthikappally,
Alappuzha.

(By Adv.P.P. Stella)

This petition is finally heard on 12.12.2025 and this court on 13.01.2026 passed the following.

ORDER

The petition is filed under Order XIV Rule 2 and Sec. 151 CPC.

Petition averments in brief are as follows.

2. The petitioner is the defendant in the above case. The suit is for a decree declaring five cheques as null and void and for consequential injunction. The petitioner/defendant has been doing business in Muscat. The defendant acquired major share of a company named M/s. Desert Technologies LLC run by the plaintiff on his request and thereby the plaintiff bestowed defendant of the responsibility of Managing Directorship of the said company which was burdened with heavy liabilities. Several consumer complaints were filed by 3rd parties and the defendant is burdened to clear as the Managing Director. Further the defendant gave plaintiff a loan of Rs. 2,00,00,000/- (Rupees Two crores only) for investing in cinematographic production in malayalam film industry. The plaintiff agreed to repay the loan amount within 1 year from the date of agreement and issuance of two cheque for Rs. 1,00,00,000/- (Rupees One crore) each. The plaintiff had executed another agreement styling as memorandum of understanding on 04-11-2018 in which the plaintiff had agreed to repay the said loan amount of Rs. 2,00,00,000/- (Rupees Two crores only) within a period of 2 years and by way of discharge of the liability the plaintiff had issued two cheques from his account. At the time of receipt of the said amount and issuance of the cheque, the plaintiff represented the defendant that prior to the completion of production and release of the films, he will get 50 % of the amount invested in the film from the film

distribution companies by sale of right of distribution and on getting instruction from him the defendant can put the dates for presentation of the cheque and if no such instruction is given until two years from the date of Memorandum of Understanding, the defendant can present the cheque by putting a date on it before the expiry of two years from 04-11-2018. As the plaintiff was in dire need of money he pressed for repayment. As per the direction of the plaintiff he put dates on the cheques and presented it for encashment. Those were returned showing the reason payment stopped by the drawer. The plaintiff also sold a Toyota access car jointly owned by the plaintiff and the defendant. When the defendant sought explanation, the plaintiff issued a cheque by agreeing to pay half of the sale proceeds of the vehicle. The said cheque was also dishonoured on presentation with the reason payment stopped by the drawer. Even though lawyers notice was issued to the plaintiff he did not repay the cheque amount. The defendant instituted a suit before the Civil Court for recovery of the money from the plaintiff and the immovable properties of the plaintiff were attached. He also initiated prosecution proceedings U/S. 138 of The Negotiable Instrument Act against the plaintiff. The present suit was filed by the plaintiff to prevent the defendant from resorting to legal measures based on the documents validly executed by the plaintiff. The suit is grossly under valued. The suit is valued for Rs. 1,500/-

(Rupees One thousand and five hundred only). From the plaint itself it can be seen that the plaintiff is trying to invalidate documents valuing Rs. 2,16,15,000/- being the total value of three cheques. The suit is filed after the dishonour of the disputed cheques. Hence for getting a declaration to invalidate the cheques he should value the suit for the value of the instruments. Hence preliminary issue may be raised for adjudicating the valuation of the suit. Hence the petition is filed.

3. The respondent/the plaintiff filed objection by contending that the petition is not maintainable either in law or on facts. It is absolutely false that on the request of the plaintiff, the defendant acquired the major share of his company which was about to be wound up and thereby the plaintiff bestowed the defendant of the responsibility of Managing Director of the company. The plaintiff never borrowed any amount as stated in the petition as per the bank account of the company. The defendant transferred to his personal account an amount of Omaniyan Riyal 6,28,443/- equivalent to Rs.12,56,88,600/-. Therefore travel ban and arrest warrant were issued against the defendant by Oman Economic Court. The plaintiff transferred only 50% of share of his company, to the defendant for a total consideration of Omaniyan Riyal 1,25,000 equivalent to 2,25,00,000/- and 10 % share was transferred to Mr. Vinod Varghese by executing a share transfer agreement. As per the direction of the defendant share transfer was done initially.

But the defendant paid only Rs. 1,00,00,000/- (Rupees One crore only). The defendant obtained an order of travel ban against the plaintiff on a false case. Accordingly he was constrained to sign 2-3 agreements already prepared by him and handed over the five disputed cheques so as to lift the order of travel ban. Out of these five cheques two blank signed cheques were issued along with a covering letter dated 04-11-2018 and a triparty agreement dated 04-11-2018. Thus the five cheques mentioned in the plaint were not issued in discharge of any legally enforceable debt or liability. On the contrary the same was obtained by the defendant by force and exercising threat undue influence and is without any consideration. As per law the suit is to be valued on the basis of the pleadings in the plaint. Accordingly the plaint is properly valued and sufficient court fee has been paid. The petition is filed only as an experimental step to pressurise the respondent to heed to his illegal demand. Hence the petition may be dismissed.

4. From the above petition averments, contentions in the objection and the pleadings the following preliminary issues were raised for consideration.

1. Whether the suit is properly valued?
2. Whether the plaintiff remitted proper court fee as per law?
3. Relief and costs?

5. Heard both sides. Perused the records.

Issue Nos. 1 to 3 :-

6. The suit is to declare the disputed cheques as null and void and to return of the said cheques from the possession of the defendant and other consequential reliefs. The learned counsel for the defendant argued that the value of the disputed cheque executed by the plaintiff in favour of the defendant is of Rs. 2,16,15,000/- (Rupees Two crores sixteen lakhs and fifteen thousand only). He brought the attention of the court into the fact that the plaintiff approached the court for invalidating the documents valuing Rs. 2,16,15,000/- after the cheques were dishonoured. According to him, for getting a declaration to invalidate the cheques, he should have valued the suit for the value of the instrument as shown. But the suit is valued for Rs. 1,500/- only which is grossly under valued. Meanwhile, the learned counsel for the plaintiff argued that the said documents do not have any value as it was executed under threat, coercion, undue influence, force and without having any consideration. According to her, the valuation of the suit is to be adjudicated only on the basis of the pleadings in the plaint not on the basis of the contentions in the written statement of the defendant.

7. Perusing the plaint it can be gathered that the plaintiff admitted the execution of the disputed cheque in favour of the defendant. He challenged the validity of the said cheques on the ground of vitiating elements such as force,

undue influence, coercion and threat. So the said documents cannot be considered as documents void ab initio. As per the pleadings the disputed documents are voidable ones and adjudication of the court on the circumstances of voidability of the disputed documents are required. Here, the executant himself approached the court for invalidating the documents executed by him. So the proper remedy of the executant is to seek cancellation of the documents that he executed on the grounds of vitiating elements.

8. In **Narayani Ammal v. Sanjeev reported in 2001 KHC 460** Hon'ble Kerala High Court observed while adjudicating the similar issue that the three documents which are the subject matter of the suit in question are actually voidable and not null and void even if the entire averments in the plaint are accepted as correct. So it was held by Hon'ble Kerala High Court that in a suit the subject matter is voidable, court fee payable is U/S 40 and not under Sec. 25 (b) of the Kerala Court Fees and Suit Valuation Act 1959. Further in **Suhrid Singh @ Sardool Singh v. Randhir Singh and others reported in 2010 KHC 4216** the Apex Court considered the question as to payment of court fee when the prayer is one for declaration that the deeds do not bind the plaintiff on his right on the plaint schedule property and it was held that where the executant of a deed wanted to annul a deed, he had to seek cancellation of the deed. But if a non executant seeks

annulment of a deed he had to seek a declaration that the deed is invalid or illegal. From the above dictum it is clear that the plaintiff being the executant has to seek the relief of cancellation of the disputed documents executed by him and he should pay court fee as per Sec. 40 of The Kerala Court Fees and Suit Valuation Act 1959. Nonetheless since the plaintiff challenged the disputed documents on the ground of undue influence, coercion and threat, those documents are voidable ones and on that aspect also Sec. 40 of the said Act is attracted herein this case.

9. The learned counsel for the plaintiff argued that the disputed cheques do not have any value. So the plaintiff need not remit the court fee on the basis of the amount mentioned upon the cheque. From the plaint itself it made clear that the plaintiff executed and handed over the cheque bearing the amount even though the date was not mentioned there upon. Further it is noted that the plaintiff challenged the validity of the disputed cheque when it was dishonoured on presentation by the defendant. So from the plaint averments it can be seen that the plaintiff executed the disputed cheque with the knowledge of the amount mentioned there upon. In **Sathi Devi v. Prasanna and another reported in 2010 (2) KHC 475** the Hon'ble Supreme Court discussed in detail the various Sections of The Kerala Court Fees and Suit Valuation Act including Sec. 7 and Sec. 40 of the said Act. It was further observed that in a suit for cancellation of decrees, documents and sale deed etc.,

the court fee payable is the value shown in the document and not the market value of the property. By relying on the above dictum, I hold that the plaintiff has to pay the court fee U/S. 40 of The Kerala Court Fees and Suit Valuation Act in accordance with the value shown in the disputed cheques executed by him.

Thus the petition is disposed of. The plaintiff is directed to pay court fee U/S. 40 of The Kerala Court Fees and Suit Valuation Act within 1 month from the date of the order. He is at liberty to amend the relief portion of the plaint by filing amendment petition. Both parties shall bear their own costs.

Dictated to the confidential Assistant, transcribed and typed by her, corrected by me and pronounced in Open Court on this the 13th day of January 2026.

Sd/-
Veena. V.S
Sub Judge

Appendix: NIL

Id/-
Sub Judge

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Sub Judge