

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE -VII, ERNAKULAM

Present :-

Sri. V P M Suresh Babu, Additional District & Sessions Judge VII.
Tuesday, the 13th day of January, 2026/23rd Pousha, 1947.

E.A No. 1/2025 in
E.A. No. 117/2019 in E.P No. 1282/2019 in
ARC No. 12/2015

Petitioner/Judgment Debtor :

M/s. DLF Home Developers Ltd., having its registered office at 9th Floor,
DLF Centre, Sansad Marg, New Delhi - 110 001 and having its Regional Office,
Opp. Doordarshan Kendra, Seaport Airport Road, Kakkanad,
Cochin - 682 030, represented by its Authorised Signatory, Mr.Sajid K.M

By Advs. Gopikrishnan Nambiar, Joson Manavalan, John Mathai K

Respondent/Decree Holder :

Samuel V Thomas, S/o Cheriyan Thomas,
age not known to the petitioner, Vadakkathara House,
Ettichuvadu, Ranni, Pathanamthitta - 689672

By Adv. Saiby Jose Kidangoor

Petition filed by the petitioners under Order XXI Rule 55 of the Code Of Civil Procedure, 1908.

The petition coming on for hearing on 09.10.2025 and the Court on 13.01.2026 passed the following:

ORDER

It is an application filed by the Judgment Debtor under Order XXI Rule 55 of the Code of Civil Procedure to raise the attachment of the property made in EP 117/2019.

2. Brief facts: The execution application is filed seeking direction to the Judgment Debtor to pay the award amount of ₹ 1,35,90,091.38 to the Decree Holder along with the future interest on the principal amount ie., ₹76,02,768/- at the rate of 9% per annum till the date of payment. As per the Order dated 08.07.2019 the property belonging to the judgment debtor was attached. The

judgment debtor has already deposited ₹40,77,177/- before the court and decree holders and has the amount on 28.06.2024. The balance principal amount of ₹35,25,651/- was handed over on 15.03.2023 as per demand draft. The judgment debtor is ready and willing to pay the interest amount payable to the decree holder. The judgment debtor is now producing a DD for an amount of ₹70,23,085/- drawn in favour of the decree holder. In these circumstances, full satisfaction may be recorded and EP may be dismissed and attachment raised.

3. The Decree Holder / respondent filed objection contending as follows:- It is submitted that as per the Arbitral Award dated 23.07.2018, The principal liability of the judgment debtor is ₹76,02,768/-. The Award payable as on the date of award is ₹59,88,123. The total amount of ₹ 1,35,90,891.38 was due as on 23.07.2018. The judgment challenged the award in AOP No. 273/2018 and Arbitration Appeal 7/21 before the Hon'ble High Court and Special Leave Petition 1096/2022 before the Supreme Court. All these proceedings were dismissed and the decree has become final. The interest from 23.07.2018 remains unpaid as on 11.09.2025. The interest comes to ₹48,83,264/- and the liability also continues to increase. In the calculation statement submitted by the judgment debtor, deduction of TDS was made on the submission that the award falls under Section 195A. The contention is not sustainable. Decree holder is not a non-resident. He has been residing in India since 2021. Therefore, deduction of income tax is also not correct. Therefore, amount is still due from the decree holder and the attachment is not liable to be lifted.

4. The following points are raised for consideration:

- 1) Whether the attachment of the property in EP 117/2019 is liable to be lifted?
- 2) Whether the respondent was justified in deducting the income tax from the total amount of the decree debt?

5. **Point No. 1 and 2 :-** The Learned Advocate for the petitioner / Judgment Debtor submits that as per the calculation statement filed by the petitioner, the only amount due to the petitioner as on 15.07.2025 is ₹70,23,085/- and he has produced a Demand Draft for the said amount. Therefore, the

attachment is liable to be raised.

6. The learned Advocate for the Decree Holder submitted that the judgment debtor is not a non-resident Indian, and no tax is liable to be deducted from the interest component. The judgement debtor on the other hand submit that the amount was paid by deducting 31.02% as income tax under Section 195 of the Income Tax Act on interest component. Both sides had filed calculation statement. As per the calculation statement filed by the decree holder, the amount due as on 13.02.2025 when the calculation statement filed is ₹1,10,90,275.39 Now the amount produced along with the application is ₹70,23,085/-. On going through the statement filed by the parties and hearing the parties and the original objection, it seems that there is nothing to show that the decree holder is non-resident Indian coming under Section 195 of the income tax so as to deduct the income tax on the amount. Therefore, deduction of the income tax and payment of ₹70,23,085/- will not be sufficient to satisfy the entire decree.

7. Therefore, the calculation statement of the decree holder can be accepted and the amount due is ₹1,10,90,275.39 as on the date of submitting the calculation statement in the present case. Therefore the judgment debtor is directed to deposit the balance amount out of ₹ 1,10,90,275.39 - ₹70,23,085 for which a DD is already produced and balance to be deposited within 15 days from the date of this order and on deposit of the said amount, the attachment shall stand lifted.

For payment of balance amount to 28/1/2026.

Dictated to the Confidential Asst., typed and transcribed by her, corrected and pronounced by me in the open court on this the 13th day of January, 2026.

Sd/-

V P M Suresh Babu

Addl. District & Sessions Judge- VII

(By Order)

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E.A No. 1/2025 in
E.A. No. 117/2019 in
E.P No. 1282/2019 in
ARC No. 12/2015
Order dtd 13.01.2026