

IN THE COURT OF THE MUNSIFF, PERUMBAVOOR

Present:- Smt. Sumey Chandran., Civil Judge (Junior Division)

Monday, the 11th day of August, 2025/ 20th Sravana 1947

E.A No. 159/2025 in E.P. 193/2023

in

OS No.175/2017

Petitioner/ 2nd Judgment Debtor:-

Kochurani, Aged 64 years, W/o. Late C M Mathunny, Ambalathara House, Airmury Kara, Koovappady Village, Kunnathunadu Taluk.

By Adv. Anand Omanakuttan

Respondents/Judgment Debtor/Decree Holders No.1, 3, 4, 5:-

- 1 Shainu Claire Mathews, W/o. Sajeev Mathew, Aged 54 years, Chamakkalayil House, Ayarkunnam P O, Ayarkunnam Village, Kottayam Taluk, Kottayam District. Now residing at 67 Bradford Road, Bolton, BL 32 HE, Lancashire, United Kingdom, represented by her Power of Attorney Holder Mathai M T @ Baby M T, S/o. Thomas, Aged 65 years, Murigayil House, Ayarkunnam P O, Ayarkunnam Village, Kottayam Taluk, Kottayam District.
- 2 C M Mathunny (Died), Ambalathara House, Airmury Kara, Koovappady Village, Kunnathunadu Taluk.
- 3 Sajeev Mathew, S/o. Late C M Mathunny (Died), Ambalathara House, Airmury Kara, Koovappady Village, Kunnathunadu Taluk.
- 4 Reni Mathew, D/o. Late C M Mathunny (Died), Ambalathara House, Airmury Kara, Koovappady Village, Kunnathunadu Taluk.
- 5 Suni Benny, D/o. Late C M Mathunny, Ambalathara House, Airmury Kara, Koovappady Village, Kunnathunadu Taluk.

R1 - By Adv. Sebastian James & Kabir D

R2 - Died

R3 to R5 - No vakalath seen filed

This Petition having been finally heard before me on 11/08/2025 and the court on the same day passed the following:-

O R D E R

1. This petition is filed by Judgment Debtor No. 2, a senior citizen, seeking stay of the execution proceedings.
2. The petitioner states that she was the wife of the first judgment debtor, who, during his lifetime, assured her of residence in his house and that she would be taken care of. The first judgment debtor is no longer alive. She relies upon an order passed by the Maintenance Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, granting her residential rights in a house other than the petition schedule property. On these grounds, she prays for a stay of further proceedings in execution.
3. The decree sought to be executed was passed in the year 2017 after a full-fledged trial on merits. The decree is not an ex parte one. Since then, the petitioner has not preferred any appeal. After the execution petition was filed, notice was duly served on Judgment Debtor No. 2, but she did not file any objection. The records further show that the decree holder furnished her fresh address in the execution petition, and notice was served at that address. She acknowledged receipt of proceedings showing her as judgment debtor in the schedule.
4. Point for Consideration is:-

Whether the present petition is maintainable and whether the petitioner is entitled to stay of execution proceedings.
5. The petitioner's claim that she has a right of appeal cannot be accepted as a ground for stay when no such appeal has been filed in the eight years since the decree. Today the EP posted for effecting delivery. The circumstances

indicate that this petition has been brought only to delay the execution. The materials on record show that the petitioner is residing in another house, which is different from the one described in the decree schedule. The Tribunal's order merely grants her a right of residence in that other house. There is nothing in the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, that can override or nullify a decree validly passed by a competent civil court after due trial. In these circumstances, there is no legal ground to stay the execution of the decree, which has attained finality after an elaborate trial.

6. **In the result**, the petition is dismissed. No order as to costs.

Pronounced by me in open court on this the 11th day of August, 2025.

Sd/-

Sumey Chandran

Civil Judge (Junior Division)

Appendix:- Nil

Id/-

Civil Judge (Junior Division)

(By Order)

// True Copy //

Junior Superintendent

Copy of Order in
EA 159/25 in EP.193/2023
in OS. 175/2017
Dated: 11/08/2025