

**IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION),**  
**MUVATTUPUZHA**

Present:- Sri. Atheek Rahman, Civil Judge (Senior Division)  
Monday, the 26<sup>th</sup> day of May, 2025 / 5<sup>th</sup> Jyaishta 1947

**R.P.I.A. 788/2016 in I.P.No.4/2000**

**Petitioners/Original Petitioners 1 to 4:**

1. Joseph S/o Chakku, Parakkal Kuttikkattu, Thalakkodu, Thalappally Taluk.
2. Sr. Eugene, represented by Joseph S/o Chakku, Parakkal Kuttikkattu, Thalakkodu, Thalappally.
3. Sr. Annie James, represented by Joseph S/o Chakku, Parakkal Kuttikkattu, Thalakkodu, Thalappally.
4. Sr. Philo James, represented by Joseph S/o Chakku, Parakkal Kuttikkattu, Thalakkodu, Thalappally.

***By Advs. James Manual, P C Varghese,  
& Aniamma Varghese.***

**Respondents/Petitioners & Respondents in appeal:**

1. C.K. Jacob, S/o Kuruvila, Chakkiath house, Kothamangalam kara, Kothamangalam Village (R1).
2. C.K. George S/o Kuruvila, Chakiath House, Kothamangalam Kara, Kothamangalam Village(R2).
3. C.K. Jose S/o Kuruvila, Chakiath House, Kothamangalam Kara, Kothamangalam Village (R3).
4. C.K. Thomas, S/o Kuruvila, Chakiath house, Kothamangalam kara, Kothamangalam village (R4).

5. C.K. Peter, S/o Kuruvila, Chakiath house, Kothamangalam kara, Kothamangalam Village (R5).
6. Saly W/o Devassy, Chakiath house, Kothamangalam kara, Kothamangalam Village (R6)
7. Alice W/o Antony, Chakiath house, Kothamangalam kara, Kothamangalam Village (R7).
8. Valsamma W/o George, Chakiath house, Kothamangalam kara, Kothamangalam Village (R8)
9. Sicily W/o Jose, Chakiath house, Kothamangalam kara, Kothamangalam Village (R9).
10. Saji W/o Jacob, Chakiath house, Kothamangalam kara, Kothamangalam Village (R10).
11. Kochuthresia, Avirappattu, Kondimattom, Keerampara Village (R11).
12. Thomas S/o Varkey, Malieckal house, Perumannoor kara, Keerampara Village (R12).
13. Thomas Francis, Thekkekara house, Ramalloor, Kothamangalam Village (R13).
14. K.V. Mathai, Kochuparambil, Malippara P.O. (R14).
15. M.S. Gerard, S/o Xavier, Mundackal house, Angady, Kothamangalam village (R15).
16. Thressiakkutty Antony, Kottackal house, Kothamangalam Village (R16).
17. A.P. Issac, Arattipadickal, Onnam mile, Kothamangalam (R17).
18. Jacob Thomas, Kuzhiveli house, Ayyankavu, Kothamangalam Village (R18).
19. The branch Manager, Bank of Baroda, Kothamangalam (R19).
20. Sooraj C. George, Chakkitanirappel, Pindimana kara, Pindimana Village (R20).

21. Benny John, Andathettuveetil, Kalavathu road, Palarivattom (R21).
22. Molly Mathew, Paremmal, Nedungapra (R22).
23. Annamma Hormis, Ayyanattuparayil, Thaikkattussery, Cherthala (R23).
24. Hormese Tharakan, Ayyanattuparayil, Thaikkattussery, Cherthala (R24).
25. K.P.Daniel, Koomullumkunnel, Keerampara(R25)
26. Girija Sankar, Therathinal, Thrikkariyoor (R26)
27. E.M.Joseph,Erumana, Panipra P.O (R27)
28. T.M. Mathai, Thuruthiyil, Kottappady (R28).
29. A.O. Paulose, Appackal, Chelad (R29).
30. Sosamma Paulose, Appackal, Chelad (R30).
31. A.P. Eldho, Appackal, Chelad (R31).
32. Elizabeth Mathew, Thekkumkudiyil, Ayakkad, Thrikkariyoor (R32).
33. M.A. Avarachan, Manjummekudiyil, Nedungapra (R33).
34. Ajeesh Abraham, Manjummekudiyil, Nedungapra (R34).
35. S.V Annamma, Manjummekudiyil, Nedungapra (R35).
36. Philomina Robert, Mampillil, KOCHI 1 (R36).
37. Abraham T. Mathai, Thundiyil, Panipra (R37).
38. V.C. Ittoop, Encharamkudiyil, Vengoor (R38).
39. K.P.Harikrishnan, Retainee, Indian Express, Kothamangalam (R39)
40. Paul P. Babu, Poovelil, Kinginimattam (R40).
41. Rossy George, Kannadan, Palamattom (R41)
42. Thomas Joseph, Oliapuram, Kothamangalam (R42)

43. Romeo Joseph, Oliapuram, Kothamangalam R43)
44. Pushpa Paul, Areekkattu, Karoor P.O, Chalakkudy (R44)
45. K.P. George, Koorppullil, Kothamangalam (R45)
46. E.M. Joseph, Erumala, Panipra P.O (R46)
47. A.V. George, Aikkarakkudiyil, Perumbavoor (R47)
48. Kumari George, Aikkarakkudiyil, Perumbavoor (R48)
49. K.C. Narayanan, Thundamplayil, Thrikkariyoor (R49)
50. P.K. Kuruvila, Thekkumkudiyil, Thrikkariyoor (R50)
51. Deputy Thahsildar, Kothamangalam (R51)
52. Mercy George, Flat no. 302, Easeland Enclave, Kochi 20 (R52)
53. Beena Poovelil, Kinginimattam (R53)
54. Mithun George Paul, D/o Beena Poovelil, Kinginimattam (R54)
55. Paily Mathew, Oliappuram, Punnamattom, Kadavoor Village (R55)
56. Jose Mathew, Oliyappuram, Punnamattom, Kadavoor Village (R56)
57. Jaisy Mathew, Oliyappuram, Punnamattom, Kadavoor Village (R57)
58. Paulson, Oliappuram, Kuthukuzhi, Kothamangalam (R58)
59. Dr. P.V. Joseph, Pukkunnel, Puthuppady Kara, Kothamangalam Village (R59)
60. P.J. Elikkutty, Pookkunnel, Puthuppady, Kothamangalam Village (R60)
61. Ashly Joseph, Pookkunnel, Puthuppady, Kothamangalam (R61)
62. Roshan Joseph, Pookkunnel, Puthuppady, Kothamangalam (R62).
63. Nisha Susamma Joseph, Pookkunnel, Puthuppady, Kothamangalam (R63)
64. Thamsha George, Pookkunnel, Puthuppady, Kothamangalam (R64)
65. P.M. George, Pulpparambil, Mathirappilly, Kothamangalam (R65)

66. Suresh, Thekkanjavarathakkad, Perumpilly P.O (R66)
67. C.V. Induchoodan, Therthinal, Thrikkariyoor (R67)
68. P.V. John, Jeevas, Puthussery, Cherai P.O (R68)
69. The branch Manager, Canara Bank, Kothamangalam (R69)
70. V.K. Johnny, Vadakkeppurathukudiyil, Karukadam, Kothamangalam (R70)
71. A.P.Thomas, Avirappattu, Malayinkeezhu, Kothamangalam (R71)
72. Raagam Jacob, Padinjarekkara, Mathirappally, (R72)
73. Dr. Jacob Abraham, Pandinjarakkara, Mathirappally, Kothamangalam (R73)
74. Swapna John, Pandinjarekkara, Mathirappally, Kothamangalam (R74)
75. Lucy Abraham, Pulinthanath, Mannathoor (R75)
76. P.J.Abraham, Pandinjarakkudy, Mathirappally (R76)
77. P.Joseph, Peechattukudiyil, Kothamangalam (R77).
78. V.M.Padmakshamma, Mayanivas, Kuthukuzhi (R78)
79. T. Govindankuttimenon, Mayanivas, Kuthukuzhi (R79)
80. V.G. Krishnakumar by T. Govindankuttimenon (R80)
81. V. Gopalakrishnan, Devivilasam, Kuthukuzhi (R81)
82. K.T. George, Kuzhivelil, Kuthukuzhi (R82)
83. Jomon K. George, Kuzhivelil, Kuthukuzhi (R83)
84. Girija Induchoodan, Sreevilas, Perumpilly (R84)
85. T.K.S. Marar, Thekkenjarakkattu, Perumpilly (R85)
86. T.K. Radha, Therthinal, Thrikkariyoor (R86)
87. Sosamma Damien, Kakkanattu, Nellimattom (R87)
88. A.P. Kuriakose, Athirampuzhayil, Kombanadu (R88)
89. K.K. Damien, Kakkanattu, Nellimattom (R89)

90. V. Kuriakose, Vadakkepurathukudy, Karukadom (R90).
91. Sojan Thomas, Avirappayyukudy, Malayinkeezhu (R91)
92. T.I. Kunjappan, Thalayattuthottathil, Thankalam, Kothamangalam (R92)
93. Beena Joy, Appackal, Keerampara (R93)
94. Saramma Varghese, Mariyil, Kavalangad (R94)
95. Mathew Joseph, Pothanikkattu, Kothamangalam (R95)
96. Susamma Joseph, Pothanikkad, Kothamangalam (R96)
97. Tojo Tharian, Pazhakkadayil, Thekkenada, Vaikom (R97)
98. Rosa George, Akkara, Ollur, Thrissur (R98)
99. Shimmy Akkara, Ollur, Thrissur (R99)
100. Nimmy George, Akkara, Ollur, Thrissur (R100)
101. Johny Paul, Pulimthadathil, Kozhippilly (R101)
102. P.V. Paulose, Pulimthadathil, Inchoor, Kozhippilly (R102)
103. Mary Paulose, Pulimthadathil, Inchoor, Kozhippilly (R103)
104. Joshy Paul, Pulimthadathil, Inchoor, Kozhippilly (R104)
105. John Abraham, Padinjarekkara, Mathirappilly (R105)
106. Deepa George, Ikarakudiyil, Perumbavoor (R106)
107. Renju George, Ikarakudiyil, Perumbavoor (R107)
108. P.J. Joseph, Peechattu, Nellimattom (R108)
109. Rani Jose, Kalamparampil, Nellimattom (R109)
110. Joy.C.A, Cherikkattu, Pothanikkad (R110)
111. Joy C.A, Cherikkattu, Pothanikkad, P.A holder for Joshy (R111).
112. Geo Antony, Chathamkandathil, Muvattupuzha (R112)

113. C.U. Antony, Chathamkandathil, Muvattupuzha (R113)
114. Gracy Antony, Chathamkandathil, Muvattupuzha (R114)
115. T.C. Isac, Thottungal, Bhoothathankettu (R115)
116. Dr. Joy P. Isac, Thottungal, Bhoothathankettu (R116)
117. Francis Kuruvila, Pulickal, Ramalloor, Kothamangalam (R117)
118. K.P. Aji, Kalappura Puthenpura, Mathirappally, Kothamangalam (R118)
119. Daisy W/o late Joseph, Parampil, Kanjirappally by P.A. Holder (R119)
120. C.S. Abbas, S/o Sathi Pillai, Chelikandathil, Velloorkunnam (R119A)
121. Howamma, Ammankulam, Thankalam (R120)
122. Joy S/o Mathew, Ammankulam, Thankalam (R121)
123. Thankamma Joy, Kannaparambil, Pothanikkad (R122)
124. Ouseph Ouseph, Padinjarekudiyil, Kothamangalam (R123)
125. Aleyamma Ouseph, Padinjarekudiyil, Kothamangalam (R124)
126. K. Rajappan Rajbhavan, Mathirappally (R125)
127. V. Vasudevan Nair, Devivilas, Ayyankavu, Kothamangalam (R126)
128. Sreedevi Narayanan, Sreelakshmi, Kulayettikkara (R127)
129. Varkey Joseph, Kuzhikanniyil, Kuthukuzhi (R128)
130. N.V. Chakkochan, Kuzhikanniyil, Kuthukuzhi (R129)
131. Paily S/o Varkey, Mykulangara, Kinginimattom (R130)
132. Abraham S/o Varkey, Maikkulangara, Now residing at Paruthivayalil Keezhillam (R131)

133. Ittoop S/o Varkey, Maikkulangara, Kinginimattom (R132)
134. Annakkutty W/o Isac, Kudilil Puthenpura, Pampakkuda, Memuri (R133)
135. Thomas S/o Varkey, Mykulangara, Keezhimattom, Icaranad south (R134)
136. Jose S/o Thomas, Nedumthallil, K.K.T. Nagar, Aluva (R135)
137. Gigi George, W/o George Thomas, Nedumthallil, K.K.T. Nagar (R136)
138. Jithesh George, S/o George Thomas, Nedumthallil, K.K.T. Nagar (R137)
139. Roy S/o Mathew, Vattakkunnel, by P.A. Fr. George Koottungal, Sanjo Bhavan, Muthalakkodam P.O. (R138)
140. Saj S/o Mathew, Vattakkunnel, by P.A. Fr. George Koottungal, Sanjo Bhavan, Muthalakkodam P.O. (R139)
141. Santhosh Paul, Plot-237, Sector 28, Vysali, represented by P.A. Holder Fr. George Koottungal, Sanjo Bhavan, Muthalakkodam (R140)
142. Maria D/o late Joseph Parambil, Kanjirappally represented by P.A. K.T. Nicholas (R141)
143. Daisy Joseph W/o late P.J. Joseph, Parampil house, Kanjirappilly kara, Kanjirappilly Village represented by power of attorney.
144. Maria D/o late P.J. Joseph, Parampil house, Kanjirappilly kara, Kanjirappilly Village represented by power of attorney.
145. Mathew Tharakan, Ayyanattuparayil, Kozhippilly P.O, Varappetty Village .
146. Mariamma Mathew Tharakan, Ayyanattuparayil, Kozhippilly P.O., Varappetty Village.

147. Dominic Tharakan, S/o Mathew Tharakan Ayyanattuparayil, Kozhippilly P.O, Varappetty Village.
148. Elsamma Joseph, Palamattom house, Mariya Nagar, Edappilly.
149. Aejo Joseph, Palamattom house, Mariya Nagar, Edappilly
150. Beijo Joseph, Palamattom house, Mariyanagar, Edappilly.
151. Mathew Tharakan, Ayyanattuparayil, Kozhippilly Kara, Varappetty Village.
152. Mariamma Mathew Tharakan, Ayyanattuparayil, Kozhippilly Kara, Varappetty Village.
153. Dominic Tharakan, Ayyanattuparayil, Kozhippilly Kara, Varappetty Village.
154. Smitha D/o Omana Jose, Peechattu house, Kuthukuzhi, Kothamangalam.
155. Lillikkutty Jacob, Vellllokunnel (H), Mamadom desom.
156. Varkey S/o Mathew, Manamadom (H), Karingazha kara, Kothamangalam.
157. K. Ittoop S/o Varghese, Kolencheriyil house, Ramalloor, Kothamangalam
158. Martin Kuruvila Jacob, Chakiath house, Kothamangalam.
159. Merin Jose Jacob, Chakiath house, Kothamangalam.
160. George Jacob, Chakiath house, Kothamangalam.
161. Ritha Jose Jacob, Chakiath house, Kothamangalam.
162. Lulu Rose Suresh, D7/o George, Chakiath house, Kothamangalam
163. Kuruvila George, Chakiath house, Kothamangalam.
164. Meethu Elizabeth George, Chakiath house, Kothamangalam.
165. Babu Jose, Chakiath house, Kothamangalam.



- R8,R163 & R164*** ***By Advs. A K Jayaprakash & S Saritha***
- R165 & R166*** ***By Advs. Paul Mathew & Babitha T H***
- R14, R21*** ***By Adv. V V Thomas***
- R17, R18, R29 to  
to R37, R47 to  
R50 & R118*** ***By Advs. M Jayalal & A R Ani***
- R121toR125,  
R23,R24,R120 &  
R159*** ***By Advs. T E Varkey & N P Thankachan***
- R25*** ***By Advs. P S Gopalakrishnan Nair,  
G Jayasankar & K N Ravi***
- R28*** ***By Adv. Jose Joseph***
- R41*** ***By Adv. C V Paul***
- R52*** ***By Adv. Joshy Joseph***
- R55 to R63*** ***By Adv. Gigi Peter***
- R72 to R76*** ***By Adv. Joseph J***
- R94*** ***By Adv. Ajai Mathew***
- R95 to R100*** ***By Adv. Saji Mathew***
- R101 to R104*** ***By Adv. Mathews Joseph***
- R110 & R111*** ***By Adv. Domson J Vattakkuzhi***
- R112 to R114 &  
R119 A*** ***By Adv. Dilip C***
- R119*** ***By Adv. Sajith K R & Christopher Abraham***

**R128** *By Adv. P B Mohan Kumar*

**R129** *By Adv. V.V.Thomas*

**R131 to R134** *By Adv. B Anil*

**R135 to R138** *By Adv. N Ramesh*

**R142 to R144** *By Adv. Manju Kuriakose.*

**R146 to R149** *By Adv. Joby Jose*

**R150 to R155** *By Adv. T.E. Varkey*

**R156** *By Adv. V M Bijukumar*

**R141,R130,R145  
& R12** *Ex-parte.*

**R04, R06, R11,  
R15, R16,R19,  
R20, R22, R26,  
R27, R38, R39,  
R40, R42, R43,  
R44, R45, R46,  
R51, R53, R54,  
R64 to R71, R77  
to R93, R105 to  
R109, R115 to  
R117,R126,R127,  
R139,R140,R157  
to R160 & Addl  
R167 to  
Addl.R174**

*No Vakalath*

This petition is filed under Order IX Rule 4 and Section 151 of Civil Procedure Code to restore the Insolvency Petition No.4/2000 dismissed for default on 09.08.2016 and also order in I.A.1261/2010 and is coming on for final hearing on 19.05.2025 in the presence of the above counsel and the court on 26<sup>th</sup> day of May 2025 passed the following :-

### **ORDER**

This application is filed by the petitioners in IP 04/2000 to restore the petition dismissed for default on 9.8.2016. In the petition, it is stated that when the case was listed for evidence, the counsel for the petitioners could not adduce evidence as the documents in this case were before the Appellate Court in CMA 106/2014 and CMA 107/2014. Prosecuting the original Insolvency Petition without the original documents will seriously affect the interest of the petitioners.

2. In the above circumstance, petitioners sought to restore the Insolvency Petition on the files of the Court by setting aside the order dated 09.08.2016.

3. The counsel for respondents 1, 5, 10 and additional respondents 152 to 156 filed memo stating that they have no objection in allowing the petition.

4. Respondents 8, 163 and 164 filed objection stating that the petition is not maintainable either in law or facts. All the respondents in the Original petition are necessary parties to the restoration petition, but they have not been included. Hence, the restoration petition is bad for non joinder of necessary parties. As per order in IA 749/2015, additional respondents 157 to 159 were impleaded; however, they are not parties to the restoration petition. Some of the original respondents are no longer alive, and their legal heirs have not been impleaded. The petitioners are attempting to proceed with the restoration petition without serving notice to all respondents. There was an interim order for the sale of some properties, and against the said order these respondents filed CMA 107/2016 before the Hon'ble District Court, Ernakulam. Against the said order, some of the respondents also preferred CMA 106/16. The OP was dismissed for default during the pendency of the said appeals. When the appeals came up for final hearing, since the original petition itself was

dismissed those appeals were closed with liberty to the appellants to get it revived in the event of restoring the original petition. Furthermore, additional counter affidavit filed stating that the prayer to restore the interlocutory application No.1261/2010 cannot be allowed, as the petition was disposed of on merit.

5. Respondents 9, 165 and 166 filed objection stating that the reason stated in the restoration petition is not correct. Due to willful negligence on the part of the petitioners, the insolvency petition happened to be dismissed for default. Hence, they prayed to dismiss the petition.

6. Respondent 51 filed objection stating that the reasons stated in the restoration petition is not sufficient to allow the same, and the same may be dismissed.

7. Other respondents did not file objection.

8. Both sides were heard.

9. The point for consideration is:

Are the petitioners entitled for an order to restore the IP 04/2000 as sought for?

10. The point:- The petitioners contend that when the IP was posted for evidence on 04.08.2016, they filed a petition to remove the case from the list. As there was no sitting on 4.8.16, the IP was adjourned to 09.08.2016. On 09.08.2016, though the counsel for the petitioners pressed the petition to remove the IP from the list, the IP was dismissed for default. The learned counsel for the petitioners submitted that, on the very next day, she filed the present petition to restore the case.

11. The objection raised by the respondents is that all the respondents are not included in the party array. Furthermore, the prayer to restore the IA 1261/2010 shall not be granted, since it was disposed of on merit and CMAs are still pending.

12. The petitioners filed memo stating that the petitioners are not pressing the prayer to restore IA 1261/2010.

13. I have perused the rival contentions. During the pendency of the petition, steps were taken against all the respondents, and service was completed. On going through the rival contentions, I am of the view

that the petitioners have made out a sufficient reason for their absence on the day when the IP was dismissed and the prayer to restore the IP 04/2000 can be allowed.

In the result, the petition is allowed in part and IP 04/2000 is restored on the files of the Court. No costs.

*Dictated to the Confidential Assistant, typed by her directly into computer, corrected and pronounced by me in the Open Court, this the 26<sup>th</sup> day of May 2025.*

Sd/-  
ATHEEK RAHMAN  
CIVIL JUDGE(SENIOR DIVISION)

**APPENDIX : Nil**

Sd/-  
CIVIL JUDGE (SENIOR DIVISION)

SS/-  
BTN/-

// True Copy //

(By Order)

Sheristadar

**Copy of Order in**

**R.P. I.A. No. 788/2016 in**

**I.P. No. 4/2000**

**Dated : 26.05.2025**