

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

Present:- Sri. Atheek Rahman, Civil Judge (Senior Division)
Friday, the 6th day of June, 2025/ 16th Jyaishta, 1947

E.A.No. 22/2025 in E.P.No.16/2023
in Arbitration Award No.2496/2014

Petitioners/Judgement Debtors:-

- 1 Aliyas P E, aged 70 years, S/o Ishkak, Parathuvellil house, Vadattupara Kara, Kuttampuzha Village.
- 2 Joy Kuriakose, aged 64 years, S/o Kuriakose, Karikuttippurath house, Mathirappilly Kara, Kothamangalam Village.

By Adv. Sherman A George.

Respondent/ Decree Holder:-

The Vadattuppara Rural Co-operative Society Ltd.No.E.1087,
Vadattupara, Ernakulam represented by
its Secretary Sunitha M Varghese.

*By Advs. George Mathew, K.T.Mathew, Jain Varghese
& Stephy K Regi.*

This Petition is filed under Section 151 of Civil Procedure Code
and is coming on for hearing on 06.06.2025 in the presence of the above
counsel and the court on the same day passed the following :-

ORDER

This petition is filed by the petitioners/judgment debtors under Section 151 of the Code of Civil Procedure, seeking issuance of a direction to the decree holder bank to produce the valuation report prepared at the time of granting the loan, in respect of the property proposed to be sold in auction. It is averred in the affidavit supporting the petition that the decree holder produced draft proclamation schedule, proposing the sale of 5.57 Ares of property comprising resurvey No. 68/11 of Kuttampuzha village. The proposed upset price for the said property is ₹12,85,000/-. However, the actual value of the property is significantly higher than the value stated in the proclamation schedule. Therefore, it is highly essential to produce the valuation report prepared by the sub-committee of the bank to show the actual value of the property. Hence, the petition.

2. The decree holder filed counter stating that the petition is not maintainable either in law or on facts. The value of the scheduled property, as stated in the draft sale proclamation, is based on the present market value and fair value declared by the Government of Kerala. At the relevant time of granting the loan, the 2nd judgment debtor was the

president of the decree holder society. After manipulating records and report, the judgment debtors availed of the loan facility. Therefore, the document sought to be produced cannot be relied upon to fix the upset price. The present petition lacks bonafides and has been filed solely to delay the execution proceedings. Hence, the decree holder prayed to dismiss the petition.

3. Both sides were heard.

4. Though the judgment debtors contends that the upset price shown in the draft sale proclamation is far lower than the actual market value of the property, no documents have been produced in support of the said claim. In the objection filed to Rule 66 notice, the judgment debtors claimed that the property would fetch ₹1,00,000/- per cent. To establish this, the judgment debtors contend that, it is essential to call for the valuation report prepared by the sub committee of the decree-holder society in respect of the property.

5. The contention of the judgment debtors that the property would fetch higher amount than the fair value fixed by the government requires evidence. As per the copy of the gazette, the fair value fixed per are is ₹66,000/-. Based on the decree-holder's contention, at the time of

granting the loan, the 2nd judgment debtor was the president of the society. After manipulating the records and reports, the judgment debtors availed of the facility, which suggests that the market value of the property mentioned in the records at the time of granting the loan is higher than the fair value.

6. In a case of wide disparity between the values given by the decree-holder and the judgment-debtor, do well to make some independent enquiry and fix a valuation so as to enable the intending purchasers to judge of the nature and value of the property proclaimed for sale. (see *Raman alias Raman Kunju v. Kudavechoor S. N. D. P Sakha Yogam* reported in *1970 KHC 1*).

7. Therefore, I am of the view that the decree-holder can be directed to produce the valuation report prepared at the time of granting the loan and the EP can be posted for enquiry on the market value of the property. Therefore, I am of the view that the decree-holder can be directed to produce the valuation report prepared at the time of granting the loan and the EP can be posted for enquiry on the market value of the property.

In the result, the petition is allowed. The decree-holder is directed to produce the valuation report prepared by the sub-committee of the decree-holder society.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the Open Court on this the 6th day of June 2025.

Sd/-

ATHEEK RAHMAN

CIVIL JUDGE(SENIOR DIVISION)

APPENDIX : NIL

Sd/-

CIVIL JUDGE (SENIOR DIVISION)

SS/-

Svb/-

// True Copy //

(By Order)

Sheristadar

Copy of Order in
E.A.No.22/2025 in
E.P. No.16/2023 in
Arb.Award No. 2496/2014
Dated :- 06.06.2025