

**IN THE COURT OF MUNSIFF, MUVATTUPUZHA**

**Present : Sri. Tony T. Thadathil, JMFC-III Muvattupuzha,**

In Charge of Munsiff, Muvattupuzha

Saturday, the 18<sup>th</sup> day of October 2025/ 26<sup>th</sup> Aswina, 1947

**I.A. 07/2025 in O.S. 216/2023**

**Applicant/ Plaintiff :**

Vijitha S.V., aged 38 years, D/o. Viswanathan and residing at Malanthottam House, Avoly Kara, Muvattupuzha Village, Muvattupuzha Taluk and now residing at Shappuparambil House, Pezhakkappilly Kara, Pezhakkappilly P.O., Mulavoor Village, Muvattupuzha Taluk, Pin – 686673

**By Adv. Jijo Joseph**

**Respondents/ Defendants :**

1. Anoop A.K., aged about 40 years, S/o. Kurumban and residing at Airumalaputhenpurayil House, Pezhakkappilly Kara, Pezhakkappilly P.O., Mulavoor Village, Muvattupuzha Taluk, Pin - 686673
2. The Urban Co-operative bank, Muvattupuzha, Ltd. no. 556, Kacherithazham, Muvattupuzha, Ramangalam Kara, Muvattupuzha P.O., Marady Village, Muvattupuzha Taluk, Pin – 686661 represented by its Secretary

**By Adv. R1 – Jacob Thomas**

**R2 - Muhammed Musthafa M.I.**

This petition came up for hearing on 06.10.2025 and this Court on 18.10.2025 delivered the following:-

**ORDER**

This is a petition filed under section 151 of the Code of Civil Procedure, 1908, seeking direction to the second respondent/ second defendant to produce the entire file in respect of the sale of the attached property.

2. Petitioner/ plaintiff states that the suit is one for realization of money. Petitioner had filed an application for attachment as I.A. 1/2023 and the same was allowed by this Court. Now the second respondent/ second defendant has filed a petition as I.A. 5/2025 for lifting the attachment alleging that the attached property has already been sold on 08.08.2025. Though the sale price of the property is stated to be ₹ 19,00,000/- (Nineteen lakhs only), the information given by the alleged auction purchaser is that sale price is ₹ 25,00,000/- (Twenty-five lakhs). If that be, so petitioner is entitled to realize the suit amount from the balance sale price after adjusting the amount due to the second respondent bank. It is highly necessary to direct the second respondent to produce the entire file relating to the sale of the attached property before this Court.

3. Second respondent/ second defendant filed objection stating that though this respondent was arrayed as the second defendant in the suit, with deceitful intention, petitioner had omitted to array the second respondent in I.A. 1/2023 which was filed for attachment of the plaint schedule property. The intention of the petitioner was to deny notice and obtain an attachment order deceitfully and she succeeded in it. The above case is the product of collusion between petitioner and the first respondent. Admittedly, there is mortgage over the schedule property. This petition is not maintainable since section 34 of the SARFAESI Act, 2002, bars the jurisdiction of civil Courts once the SARFAESI mechanism is invoked. The records of action taken under the SARFAESI Act cannot be summoned before the civil Court. Anyone aggrieved by the said action can prefer application before the authorities under the Act. Petitioner is a stranger who is colluding with the first respondent to thwart the legal proceedings taken by the second respondent. Hence it is prayed to dismiss the above petition with costs.

4. Heard the learner counsel for petitioner and second respondent. Perused the records.

5. In I.A. 5/2025 filed by the second respondent for lifting the attachment over the suit property, the authorized officer of the second respondent bank has stated that the property was sold in public auction on 08.08.2025 for a sum of ₹ 19,00,000/-. The authorized officer further stated in his affidavit that the outstanding loan amount and charges due to the bank is ₹ 19,00,352/-. When such an affidavit is filed before this Court, stating the sale price and also the amount due to the bank, there is no reason to call for the records of the file with the bank to verify the amounts. This Court cannot assume that the authorized officer has stated falsehood in his affidavit. It appears that petitioner seeks to realize her plaint amount from the excess amount obtained in the sale. As of now, the proceedings before this Court is only for lifting the attachment, filed by the second respondent. For the purpose of that petition, a direction as prayed for is not necessary.

**In the result,** petition is dismissed.

*Dictated to the Confidential Asst., transcribed and typed by her, corrected and pronounced by me in the open court on this the 18<sup>th</sup> day of October, 2025.*

**Tony T. Thadathil.**  
**JMFC -III Muvattupuzha,**  
**(In Charge of Munsiff)**

**APPENDIX:- NIL**

**Munsiff**

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**ORDER in**  
**I.A. 07/2025 in O.S. 216/2023**  
**Dated: 18.10.2025**