

IN THE COURT OF MUNSIFF, KOTHAMANGALAM

Present: Sri Ganesh Kumar M S, Civil Judge (Junior Division)

Saturday, the 27th day of September, 2025/05th Aswina 1947**EP No.170/2024 in ARC No. 491/2019**

Petitioner/Decree Holder:- The Kadavoor Service Co-Operative Bank Ltd. No.1882,rep by its Secretary Ambili M C, W/o. Anilkumar K S, residing at Kollammarukudiyil house, Pothanicad Kara and Vilalge, Kothamangalam Taluk.

By Advs. M/s. Gigi Peter and Sidharth S Nair.

Respondents/Judgment Debtors:-

- 1 Pushpavalli aged about 63 years, W/o. Haridas, residing at Kadambamoottil house, Panamkara Kara, Kadavoor Village, Kothamangalam Taluk.
- 2 Bindhu Sajesh aged about 46 years, W/o.Sajesh, residing at Karippelil house, Panamkara Kara, Kadavoor Village, Kothamangalam Taluk.
- 3 Salikumar, aged about 46 years, S/o. Kuttappan, residing at Veliyil house, 4th block Kara, Kadavoor Village, Kothamangalam Taluk.
- 4 Sudheesh, aged about 45 years, S/o. Krishnan residing at Veliyil house, Njrakkad Kara, Kadavoor Village, Kothamangalam Taluk.

JD1-Exparte.

JD2 By Adv. Misarumma Hassan.

JD3-Exparte.

JD4: No Vakalath.

This petition is coming on for final hearing on 27.08.2025 in the presence of counsel for both sides and on 27.09.2025 the court passed the following:-

ORDER

1. The execution petition is filed by the decree holder seeking to execute the award dated 18.02.2021 passed by the special sale officer under Order XXI Rule 10 and 11 of CPC, 1908.

2. **The averments contained in the execution petition, in brief, are as follows:-**On 18.02.2021, the special sale officer passed an award directing the judgment debtors to pay Rs.63,328/- together with interest at the rate of 17% per annum for the principle amount Rs.51,650/- from 01.12.2018 till date of realization to the decree holder. The decree holder seeks to execute the decree inter alia by arrest and detention of the judgment debtors. Hence the petition.

3. **Per contra, the judgment debtor No.2 filed objection to Order XXI Rule 22 notice inter alia contending as follows:-** The execution petition is not maintainable either under law or on facts. The court has no jurisdiction to entertain the E.P. The award passed in accordance with proceedings of ARC cannot be executed by a civil

court. Hence the petition is liable to be dismissed.

4. From the above, the following points came up for consideration:-

I. Whether the court has jurisdiction to execute the award sought to be executed?

II. Whether the award produced can be executed?

III. What shall be the order?

5. Heard and perused the records.

6. **Point Nos.I to III:-** For the sake of brevity and convenience these points are considered together. The learned counsel for the decree holder argued that this court has jurisdiction to execute the award sought to be executed. He then argued that along with the award he has produced the certificate issued by Assistant Registrar for the purpose applying execution of the said award through civil court. He then argued that the award is a deemed decree of a civil court and shall be executed in the same manner as a decree of such court. He pointed out the section 76 of Kerala Co-operative Societies Act, 1969 to state that the award is a deemed decree of civil court and thus the civil court can execute the same.

7. The counsel for judgment debtor No.2 failed to appear and

represent for judgment debtor No.2 for the two consecutive postings. Hence, her part was taken as heard.

8. At this juncture, it is pertinent to refer to decision of Hon'ble High Court of Kerala in the case of **Sankar Singh v. Hosdrug Housing Co-operative Society Ltd.** reported in **1996 (2) KLT 226/1996 (2) KLJ 70**, wherein it was held that if the award passed as per the provisions of Co-operative Societies Act, 1969 falls within the pecuniary jurisdiction of the Munsiff court, then the Munsiff court can execute the award. It is pertinent to note that the award is passed in the year 2021. At the time of the passing of the award and even now the Munsiff court has jurisdiction to entertain suits and proceedings not otherwise exempted from its cognizance of which the amount or value of the subject matter does not exceed Ten Lakh Rupees (see section 11 of Kerala Civil Courts Act, 1957). It is pertinent to note that the amount sought to be executed together with interest and costs is Rs.118656/-. The same is within the pecuniary jurisdiction of the court. Furthermore, the judgment debtors are also residing within the territorial jurisdiction of the court. Hence in light of the decision of Hon'ble High Court of Kerala in the case of **Sankar**

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coupled with section 38 of CPC 1908, I am satisfied that this court has jurisdiction to entertain the execution petition. It is also pertinent to note that the award sought to be executed is akin to money decree and the mode of assistance sought for is arrest and detention. This court has ample jurisdiction to do so. Hence, I am satisfied that this court has jurisdiction to entertain the petition. I am also satisfied that the petition is maintainable and award is executable.

In the result,

The petition is found to be maintainable and the award is found to be executable.

(Dictated to the Confidential Asst., typed by her, corrected and pronounced by me open court on this the 27th day of September, 2025)

Sd/-
Ganesh Kumar M S
Civil Judge
(Junior Division)

APPENDIX: NIL

//True copy//

Id/-
Civil Judge
(Junior Division)

Civil Judge
(Junior Division)