

IN THE COURT OF THE SUBORDINATE JUDGE OF VATAKARA

Present: Sri. Joji Thomas, Sub Judge

Friday, the 11th day of April, 2025

EA 76/2025 in EP 55/2024 in O.S. 92/2022

Between:

Muhammed Midilaj.K, S/o Kunhammed, aged 33 years, Business, residing at Meethale Kodiyath, Villiappally amsom, Mayyannur desom, Villiappally Village, Vatakara taluk, Kozhikode District, Kerala State, Pin- 673542	}	Petitioner.
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And:-

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| <p>1) M/s Bahja Gold, a Partnership firm,
Main road Villiappally, Villiappally amsom
And desom, Vadakara Taluk, Kozhikode District,
Kerala, PIN-673542, Represented by its
Managing Partner T.T.Nizar, aged 52 years,
S/o Kunhammad, Business, residing at
Sainaba Manzil, Villiappally amsom -
Mayyannur desom, Vadakara Taluk,
-do- -do-</p> | } | Respondents |
| <p>2) T.T.Nizar,
S/o Kunhammad, 52 years, Business,
residing at 'Sainaba Manzil,
Villiappally amsom and Mayyannur desom,
Vatakara Taluk, Kozhikode district,
Kerala state, PIN-673542</p> | | |
| <p>3) Ibrahim, T.T.
S/o Kunhammad, Aged 54 years,
Business, Residing at 'Sainaba Manzil,'
Villiappally amsom and Mayyannur desom,</p> | | |

Vatakara Taluk, Kozhikode District,
Kerala State PIN-673542,

- 4) Faisal,
S/o Kunhammad, 45 years,
Business, Residing at 'Sainaba Manzil,
Villiappally amsom and Mayyannur desom,
Vatakara Taluk, Kozhikode District,
Kerala State PIN-673542, Kozhikode District.
- } Respondents.

This petition coming on this day for hearing before me in the presence of Sri. K.K. Anilraj, advocate for petitioner, this court passed the following.

ORDER

This application is filed under Section 151 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') to reduce the upset price from Rs.1,00,00,000/- to Rs.77,00,000/-.

2. The averments in affidavit accompanied to this application in short is as follows:- The petitioner is the decree holder and filed this Execution Petition to recover the decree amount by sale of attached property. The present property was put to sale after fixing the upset price at Rs.1,00,00,000/-. However, since the upset price fixed was very high, there were no bidders. Therefore, upset price has to be reduced from Rs.1,00,00,000/- to Rs.77,00,000/-. Hence, this application.

3. The respondent is exparte in Execution Petition. Hence, notice to respondent is dispensed with.

4. Heard the counsel for the petitioner.

5. The learned counsel for the petitioner submitted that upset price fixed at Rs.10,00,000/- is on the higher side and it has to be reduced to Rs.77,00,000/- to attract the bidders.

6. Indeed, there was no bidders when property was put in for sale. However, for the sole reason that bidders were not present on the auction day, property cannot be sold for a meager price. Nevertheless, in order to attract bidders, upset price need to be revised. Hence, I am not inclined to allow this application to reduce the upset price. In fact, the prayer in this application is to reduce the upset price from Rs.1,00,00,000/- to Rs.77,00,000/-. Considering the fact that Rs. 1,00,00,000/- was fixed based on the materials available before the court, it cannot be reduced to Rs. 77,00,000/-. Therefore, upset price is reduced to Rs. 85,00,000/-. Accordingly, this application is to be allowed.

In the result, this application is allowed. The upset price is reduced to Rs. 85,00,000/-. No order as to costs.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open Court on this the 11th day of April, 2025) .

Sd/-
SUB-JUDGE,
VATAKARA.

Witnesses and Exhibits marked on either side : NIL

Sd/-
SUB-JUDGE,
VATAKARA .

//True Copy//

SUB-JUDGE,
VATAKARA .

Fair/Copy of Order in EA 76/2025
EP 55/2024 in OS. 92/2022
dated 11/04/2025