

IN THE COURT OF THE SUBORDINATE JUDGE OF VATAKARA.

Present: Sri. Joji Thomas, Sub Judge.

Friday, the 9th day of January, 2026.

IA 11/2025 in ORIGINAL SUIT No. 83/2022

Between:

1. Souda,
W/o. Ahamed, 52 years old,
Kolai House, Chorode East Post,
Chorode Village, Chorode Desam,
Vadakara Taluk, Kozhikode District.
2. Sajeer,
S/o. Ahamed, 39 years old,
Kolai House, Chorode East Post,
Chorode Village, Chorode Desam,
Vadakara Taluk, Kozhikode District.
3. Jabir,
S/o. Ahamed, 33 years old,
Kolai House, Chorode East Post,
Chorode Village, Chorode Desam,
Vadakara Taluk, Kozhikode District.
4. Afsath,
D/o. Ahamed, 32 years old,
Kolai House, Chorode East Post,
Chorode Village, Chorode Desam,
Vadakara Taluk, Kozhikode District.
5. Muhsina,
D/o. Ahamed, 29 years old,
Kolai House, Chorode East Post,
Chorode Village, Chorode Desam,
Vadakara Taluk, Kozhikode District.

Petitioners/
Defendants

And:

Shekir.K, S/o. Kunjammad, 35 years old, Naduviladuth House, Post Puthur, Nadakkuthazha Village, Arakkilad Desam, Vadakara Taluk, Kozhikode District.	}	Respondent/ Plaintiff
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This Petition coming on the 5th day of January, 2026 for final hearing before me in the presence of Sri. O.T Jabish, Advocate for Petitioners No. 1,2,4 &5 and Smt. Namitha Manoharan and Sri.O.T. Jabish, Advocates for Petitioner No. 3 and of Sri. N.K. Viswanathan and Sri. K.R. Jesjith, Advocates for Respondent/Plaintiff and having stood over to this day for consideration, the Court passed the following:

ORDER

This application is filed under Order 13 Rule 8 of Code of Civil Procedure, 1908 and Section 33 of the Kerala Stamp Act, 1959(hereinafter in short as CPC and Stamp Act respectively) to impound Ext.A1 and direct the plaintiff to pay deficit stamp duty. The petitioners are the defendants in the suit. The present suit was posted for defendants' evidence on 12.12.2025. The requisite stamp duty has not paid for Ext.A1, an agreement for sale. The total sale consideration though is Rs.15,86,000/-, the stamp duty for agreement for sale paid is Rs.200/-. Hence, this application.

2. The notice of this application was served on the respondent. However, no counter affidavit is filed.

3. Heard both sides. Perused the records.

4. Admittedly, the present suit is filed for return of advance amount paid to the defendant based on an agreement for sale of plaint schedule property. Ext.A1 is the said agreement for sale. Indeed, Rs.200/- alone is paid as stamp duty in Ext.A1. However, the petitioner has not pointed out which of the provision in Stamp Act provides for stamp duty for agreement for sale. It is true that Section 17(1)(f) of Registration Act, 1908 has been inserted and instrument purporting or operating to effect a contract for sale of immovable property of the value of 100 and upwards is an instrument for which registration is compulsory. However, proviso to Section 49 says that such document which is compulsorily registered may be received as evidence of contract in a suit for specific performance of such agreement or as evidence of any collateral transaction not required to be effected by registered instrument. As such, agreement for sale though not registered, be used as evidence even in a suit for specific performance of such agreement. In the present case, Ext.A1 agreement for sale is presented as evidence of payment of advance sale consideration. The stamp duty payable is applicable on the date of execution of agreement for sale. Ext A1 is dated 29.12.2021. As on 29.12.2021, applicable stamp duty for agreement other wise not provided for under clause (g) of entry 5 (Article 5) of the schedule of Stamp Act, is Rs. 200/-. In fact, Rs.200/- is seen paid on Ext A1. Since the petitioner has not mentioned specific provision in Stamp Act, which provides for payment of stamp duty in excess of Rs.200/- for Ext.A1, the prayer in this application to

impound Ext.A1 cannot be allowed. Accordingly, this application is liable to be dismissed.

In the result, this application is dismissed with costs.

(Dictated to Confidential Assistant, typed by her, corrected and pronounced by me in Open Court, on this the 9th day of January, 2026)

Sd/-
SUB-JUDGE,
VATAKARA.

Witness and Exhibits marked on either side: NIL

Sd/-
SUB-JUDGE,
VATAKARA.

Fair/Copy of Order in
IA 11/25 in OS.83/22,
Dated: 09/1/2026