

IN THE COURT OF THE MUNSIFF, PUNALUR
PRESENT :-Smt. Reshma R.S, Civil Judge, Junior Division
Monday the 01st day of December 2025, 10th day of Marga, 1947.

IA 1/2025 in OS 211/2025

Between

Petitioner/

Plaintiff : Akhil Jayapalan, 37 years, S/o.Late.Jayapalan,
Athulya, Chembakaramanalloor Muri,
Edamulackal Village, Punalur Taluk.

(By Adv. Binu.S.S)

And

Respondent/

Defendant : K.Ramesh Kumar, S/o. Kunjuraman Nair,
Vrindavanam, Ambalakkara P.O, Ummannoor,
Kottarakkara Taluk.

This petition is coming on for hearing before me on 01.12.2025
and on the same day court passed the following.

ORDER

Application filed under Order XXXVIII Rule 5 of the Code of Civil
Procedure Code, 1908.

2. **The applicant's case, in brief, are as follows:-** The applicant is
the plaintiff in the suit. The respondent is the 1st defendant in the suit.
The applicant is running a common service center at
Chempakaramanalloor and owner of vehicle bearing No. KL 25Q
6781(maruti swift) and KL25Q 6647(maruti celerio). 2nd defendant is the
wife of the 1st defendant. The defendants made the applicant believe
that the 2nd defendant is a hire official at health department and they are
intending to hire the vehicles of the applicant for the official purposes of

the 2nd defendant. The defendants agreed to give a monthly rent of Rs.25,000/- for swift and Rs.20,000/- for celerio and an agreement was prepared on 18/03/2023. The defendants made the applicant believe that the original agreement would be returned after consideration from the health department. The defendants paid rent till July 2023. Thereafter they failed to pay rent and did not produce the vehicles for periodical check up. Despite repeated demands, the defendants were not turning up. Hence the applicant filed a police complaint before SHO Anchal and on inquiry it was revealed that the celerio car was given for service at Kakkanadu and the applicant obtained vehicle from there after paying serviced charge. Further it was learnt that the 1st defendant pledged that vehicle to one Sajan and the maruti swift car was pledged to one Akhil Ramesh. The maruti swift car was under the custody of police as part of Anchal police crime No. 1591/2023. Thereafter through the intervention of mediators the 1st defendant agreed to pay the damages and he executed a cheque bearing No. 01086100 dated 05/10/2024 for an amount of Rs.4,00,000/-. When that cheque was presented for collection it was dishnoured due to "alterations on instrument other than date field alteration correction are prohibited under CTS". The applicant communicated that matter with the 1st defendant. The 1st defendant sought for some more time and executed another cheque bearing No. 10662871 dated 07/02/2025 for an amount

of Rs.4,00,000/-. When that cheque was presented for collection it got dishonoured due to insufficient funds in the account of the 1st defendant. On 07/03/2025, the applicant sent an advocate notice to the 1st defendant requiring him to repay the amount. Despite the receipt of notice, the 1st defendant failed to repay the amount. The applicant is entitled to realise that amount from the defendants. The petition schedule property belongs to the 1st defendant. Now it is reliably learnt that the 1st respondent is trying to alienate the petition schedule property with an intent to defeat the decree that may be passed against him. If the respondent succeed in his attempt, the applicant will be put to irreparable injury and hardships. Hence, this application.

3. Even though the respondent entered appearance, did not file any objection.

4. Heard and perused all the available records.

5. The only point to be considered is whether this application can be allowed?

6. **The point:** It is to be noted that on 29/05/2025, this court conditionally attached the plaint schedule property and directed the respondent to furnish security for an amount of Rs.4,00,000/-. But the respondent failed to show cause why he should not furnish security. Further, he also failed to furnish security as directed till date. The Hon'ble High Court of Kerala in **Skoda Auto India Pvt. Ltd.,**

Maharashtra v. M/s. St. Antony's Trading Company and Others reported in **ILR 2018 (1) Ker. 1025** held that; "**Order 38 Rule 6(1) of the Code provides that where the defendant fails to show cause why he should not furnish security, or fails to furnish security require, within the time fixed by the court, the court may order that the properties specified, or such portion thereof as appears sufficient to satisfy any decree which may be passed in the suit, be attached.**" In the light of the above referred decision and on perusal of the affidavit filed along with this IA, I am of the view that the property scheduled can be attached in the interest of justice.

In the result; the property specified in the schedule is attached under Order XXXVIII Rule 6(1) CPC.

Communicate the order to the Sub Registrar Office and the Village Office concerned.

Pronounced in open court on this the 1st day of December 2025.

Sd/-
Civil Judge (Junior Division)

Appendix: Nil

Id/-
Civil Judge (Junior Division)

//True Copy//

Typed by : Saranya V S
Compared by :

Civil Judge (Junior Division)