IN THE COURT OF THE SUBORDINATE JUDGE, KARUNAGAPPALLY

Present:- Santhosh Das, Civil Judge (Senior Division), Karunagappally.

Monday the 19th day of January, 2026/ 29th day of Pausha, 1947.

IA.03/2025 in OS.35/2024

Between

Petitioner/:- Anilkumar Karunakaran, aged 56 years,
S/o.Karunakaran Nair,
A/304 Ajith Park, Co/Op HSG Society,
Somavar Bazar, Malad West, Mumbai,
Maharashtra,PIN-400064

By Adv.Shri.Vinod Mathew Wilson.

And

Respondents/:-

1. Bhasura Amma, aged 62 years,
D/o.Bhavani Amma,
Sreeshylam Veettil, Kunnathoor Taluk,
Sooranadu North Village, Kollam-690561.

2. Sree Renjini, aged 47 years,
D/o.Rugmini Amma,
Revathiyil of -do-.

3. Sreeraj, aged 41 years,
Sreenilayam of -do-.

4. Raj Krishnan, aged 25 years,
S/o.Sree Renjini,
Revathiyil of -do-.

By Adv.Shri.Pradeep Kumar.D

This petition is coming on for hearing before me on 19.01.2026 and on the same day the Court passed the following.

ORDER

1. Applicant is the plaintiff and this is an application under O. 38 Rule 5 CPC, and the suit is one filed for recovery of money and other incidental and ancillary reliefs from the defendants / respondents.

2. Case advanced by the plaintiff in brief is as follows:-

    1. 2nd defendant was working as a domestic helper at the house of the plaintiff at Singapore. She joined for the work in Singapore almost 12 years back. She worked as a domestic helper at plaintiff's house and came to Singapore through an agent there. Her primary job was to look after plaintiff's son and to do the household jobs. At the time of availing her job in Singapore at plaintiff's house, she was separated from her husband and was having serious financial crunch.

    2. Plaintiff's wife was the official sponsor of the 2nd defendant for her job in Singapore till the year 2014, In late 2014, 2nd defendant took a leave of 1 month and went back to Kollam, her home town for a short visit and she did not came back even after the lapse of 3 months and thus her work permit was got cancelled. Subsequently, she contacted the plaintiff again and requested for her job and the plaintiff was inclined to re-issue her work permit and became her official sponsor and accordingly she again reached Singapore in the year 2015. During the year 2018, plaintiff and his wife got legally separated. However, the 2nd defendant continued to assist the plaintiff in the household work till the year 2022.

3. While so, in the year 2020 taking advantage of close acquaintance with the plaintiff, 2nd defendant introduced him to other defendants, and the defendants collectively borrowed a total amount of ₹ 34,75,000 /- (Thirty Four Lakhs Seventy Five Thousand only) to purchase a property to construct a family residential building. The said property is the plaint schedule property. Since the 2nd defendant was in close acquaintance with the plaintiff as her employer, she made the plaintiff believe that the land is worth to be an investment and can be used for constructing a residential building which is situated with good road access in a prime location, as well. Defendants also assured the plaintiff that the amount will be refunded after mortgaging / pledging the property, on completion of the purchase formalities including mutation.

4. Believing the representation of 2nd defendant, plaintiff remitted the total sale consideration and expenses of ₹ 34,75,000/- (Thirty Four Lakhs Seventy Five Thousand Only) to the bank accounts of other defendants, as explained in the plaint.

5. Later in December 2022, when the travel bans due to Covid-19 pandemic got relaxed, plaintiff visited Kerala and was keen to see the property purchased by the defendants utilizing his money, and as the plaintiff and defendant were in warm relationship, he asked the 2nd defendant to transfer the borrowed amount in favor of the plaintiff as assured. However, to his utter surprise the 2nd defendant then raised a fresh claim of salary dues, to the tune of ₹16 lakhs from the plaintiff.

6. Since the 2nd defendant raised false claim of salary dues, plaintiff

understood that the defendants are not going to act as per the understanding between the parties. Further, 2nd defendants refused to comeback to Singapore and she is staying back in Kerala after misappropriation and completion of the purchase of the property in the name of her relative (1st defendant).

7. Plaintiff went back to Singapore alone upon the expiry of his leave, and though the plaintiff made efforts for amicable settlement, nothing materialized and the 2nd defendant and her family continued the illegal demand of salary dues of ₹ 16 lakhs. Plaintiff reiterates that he had paid up-to-date salary to the 2nd defendant while she was working as his employee at Singapore and there were no complaints of any salary dues before any authority till she returned from Singapore. According to him, the said demand was firstly raised only when the plaintiff demanded his money back as agreed between the parties.

8. During December 2023 plaintiff again visited Kerala and had a final round of settlement talks with the defendants whereupon defendants assured that they will refund the amount after selling the property to any 3rd party. However, the 2nd defendant continued her illegal demand of arrears of salary to the tune of ₹16,00,000/-. Finding no other way out to recover his amount, plaintiff agreed to enter into an agreement with defendants 1 & 2. Accordingly, on 16.01.2024 the plaintiff and said defendants entered in to an agreement whereby the defendants jointly agreed to refund the amount of ₹ 34,75,000 /-(Thirty Four Lakhs Seventy Five Thousand only) to the plaintiff after deducting the alleged the salary dues of ₹ 16,00,000/- (Rupees Sixteen Lakhs Only Only). Plaintiff submits that there is no basis

for such claim by the 2nd defendant and such claim is raised to misappropriate the 5 cents of property which is purchased in the name of some other persons which the details are not disclosed by defendants. Plaintiff thereafter returned to his work place on expectation that the property will be disposed and the plaintiff will get back his money as agreed.

9. However, plaintiff later came to understand that the defendants are taking hasty steps to dispose of the property without informing the plaintiff and that they made all arrangements to sell the same behind the back of the plaintiff so as to further cheat the plaintiff for illegal gains.

10. According to the plaintiff, defendants are liable to pay total amount of ₹ 34,75,000/- (Thirty four lakhs seventy five thousand only) with 12% future interest from the date of suit till realization in full, and if the plaint schedule property is disposed by defendants, recovery would become bleak, and the possible decree will be defeated.

3. Upon issuance of notice, respondents entered appearance and filed detailed objection, refuting the plaint claim. It is pointed out that the 2nd defendant joint the plaintiff as a domestic help at the house of the plaintiff at Singapore. The plaintiff had marital issues with his wife and he forced the 2nd defendant to get a divorce from her husband and assured her that he will marry her. Plaintiff's wife was the official sponsor of the 2nd defendant till the year 2014. However, upon getting knowledge about the affair between the plaintiff and the 2nd defendant, plaintiff's wife canceled the sponsorship of the 2nd defendant and accordingly she was forced to return to India. Later, plaintiff compelled

her to return to Singapore on the assurance that he will marry her and accordingly he arranged her new work permit. Plaintiff and his wife got divorce in the year 2018 and thereafter plaintiff and the 2nd defendant were living as husband and wife and the plaintiff accordingly stopped paying her salary. Later, 2nd defendant asked the plaintiff to sent her accumulated salary to India for buying a land for her, whereupon plaintiff informed her that it is not wise to transfer the whole amount into a single bank account, and accordingly, she furnished details of her relative's bank accounts to sent her salary to India. Thus it is claimed that the money transferred by the plaintiff was the 2nd defendant's accumulated salary, and that the claim to be contrary is false.

4. Heard both sides and perused the records.

5. The following points are drawn up for consideration:-

    1. Has the plaintiff made out a prima facie case against defendants ?

    2. Is the plaintiff entitled for an order of attachment before judgment of plaint schedule property, as claimed ?

    3. Order and costs.

6. **Point No. 1 & 2**:-

    1. These points are considered together for the sake of convenience and as the both are closely connected.

2. Now, though the parties are not on the same page, admittedly 2nd defendant was with the plaintiff at Singapore, and while the plaintiff says that there is no salary arrears due to the 2nd defendant, it is her claim that there is arrears, and it is also her claim that the amounts transferred by the plaintiff as claimed is the accumulated salary arrears, with which the property was purchased in the name of the 1st defendant for the construction of a residential house. The agreement claimed by the plaintiff that lead to the purchase of the property and the claimed understanding that the amount will be refunded etc. are matters in dispute. Likewise, while the 2nd defendant claims that she was assured by the plaintiff that he will marry her and that on such assurance both were living together at Singapore like husband and wife since 2018, plaintiff though admitted that she was continuing with him at Singapore after his divorce with his wife, it is claimed that she was continuing only as a helper till 2022. Now, what was the real nature of relationship between the plaintiff and the 2nd defendant and whether she was receiving any wages since 2018, etc are all to be decided in the trial by appreciating the evidence. At any rate, plaintiff has not produced any records to substantiate his contention that he was regularly paying wages to the 2nd defendant from 2018 to 2022. Also, there is no whisper regarding the rate at which the wages, if any was paid. Further, it appears from the pleadings that the plaintiff was very much interested in taking back the 2nd defendant to Singapore.

3. That being so, at this juncture, the claim advanced by the 2nd defendant has more weight, and I am of the considered view that petitioner has not made out a strong primafacie case in his favour to say that decree will follow the

suit.

4. It is settled law that attachment before judgment is not to be granted on a mere assertion by the plaintiff that the defendant is attempting to dispose of the whole or part of his property. The attachment on flimsy grounds has potential to expose the defendant to immense hardships and even to ruin his reputation, credibility and standing in the society.

5. Regarding attachment before judgment, Hon'ble Supreme Court in '**Raman Tech and Process Engineering Co. v. Solanki Traders',** reported in 2008 (2) SCC 302 has held as follows:-

> "The power under O. 38 R.5 CPC is drastic and extraordinary power. Such power should not be exercised mechanically or merely for the asking. It should be used sparingly and strictly in accordance with the Rule. The purpose of O. 38 R. 5 is not to convert an unsecured debt into a secured debt. Any attempt by a plaintiff to utilize the provisions of O. 38 R. 5 as a leverage for coercing the defendant to settle the suit claim should be discouraged. Instances are not wanting where bloated and doubtful claims are realised by unscrupulous plaintiffs by obtaining orders of attachment before judgment and forcing the defendants for out of Court settlement, under threat of attachment".

6. For the discussions above, I don't find that the plaintiff has made out a prima-facie case against the defendants so as to bind the defendants with an order of attachment before judgment of plaint schedule property.

7. In fine, these points are answered against plaintiff.

7. **Point No. 3:-**

1. In view of my finding on point No. 1 & 2 above, this petition fails and the same is accordingly dismissed.

2. Having regard to the facts and circumstances, it will be apposite that the parties will suffer their respective costs.

8. Accordingly, this petition stands dismissed.

Dictated to the Confidential Assistant, typed by her, corrected by me and pronounced in open Court on this the 19th day of January, 2026.

Sd/-
Santhosh Das,
Civil Judge (Senior Division).

Appendix:- Nil.

Id/-
Civil Judge (Senior Division).

//True Copy//

Typed by : Sunil Kumar.S,
Compared by: Sini.G.

Civil Judge (Senior Division).