

IN THE COURT OF THE MUNSIFF, KARUNAGAPPALLY.
Present:- Smt.Aswathy Nair, Munsiff.
Saturday, the 01st day of February, 2025/the 12th day of Magham, 1946.

E.A. 287/2024 in E.P.04/2021

Between

Petitioners/
Judgment Debtors:-

1. Harikrishnan, aged 44 years,
S/o. Radhakrishnan Nair,
Nila, Madappally muri,
Chavara village, Karunagappally
2. Rajeeshlal, Prasantham,
Kulangarabhagam, Chavara
3. Sreejith,
S/o. Gopalakrishnan Nair,
Kochuthundil, of -do-
4. Ratheeshkrishnan,
S/o. Balakrishnan Achari,
Ratheesh bhavanam,
Chavara muri,
Chavara village,
Karunagappally.

By Advs. Sri.Jayaprakash.S, Smt.Maya. R
Smt.M.S. Manjusha and Smt.P.Deepa

And

Counter petitioner/
Decree Holder:-

Sreekrishnavilasam chitty Fund, Chavara,
represented by its Managing Director
Ravimohan, S/o. Raveendran Nair,
Mohan Nivas, Menampally muri,
Chavara village, Karunagappally.

By Adv.Sri.S.Sreekumar

This petition coming on for hearing before me on 01.02.2025 and on the same day the court passed the following.

ORDER

This is a petition filed by the 1st judgment debtor and counter petitioner is the decree holder in this case.

2. Brief facts of the petition is that petitioner/1st judgment debtor has filed a writ petition before the Hon'ble High Court of Kerala as WP(c) No. 29288/2019 challenging the execution petition filed by the decree holder. In the above petition Hon'ble High Court of Kerala has granted an interim conditional stay on deposit of 25% of the execution petition amount. Accordingly, petitioner has deposited said amount on 13.10.2023, hence the stay granted by the Hon'ble High Court is in operation. Therefore, the order of posting the case for payment may be reviewed, otherwise irreparable losses and injury will be occurred to the petitioner. Hence this petition has been filed to review the order of posting the case for payment since the stay is in operation.

3. On the other hand counter petitioner/decreed holder submitted the objection that it is true that petitioner has obtained an order from Hon'ble High Court of Kerala granting interim conditional stay in the proceedings of execution petition on deposit of 25% of the execution petition amount. But the petitioner did not comply the condition within the stipulated time period. Further the, Hon'ble High Court has vacated the interim stay granted vide order dated 16.03.2020. Therefore, there is no stay to the operation of the proceedings of the execution

petition. Hence there is no ground to review the order of posting for payment. Hence petition may be dismissed

4. On the basis of the above rival pleadings the only point is to be raised for consideration.

Whether the E.A is maintainable?

5. The point:- The specific case of the petitioner is that petitioner has obtained an order of interim conditional stay from the Hon'ble High Court. As per the order there is an interim stay to the proceedings of the execution petition. Hence the order of posting for the payment without considering the said order of conditional stay to be reviewed. On the flip side counter petitioner contended that since the petitioner failed to comply with the conditions stipulated in the order, the interim stay has been vacated by the Hon'ble High Court and at present there is no stay to the proceedings of the execution petition. Hence, petition is not maintainable.

6. On perusal of rival contentions it is seen that admittedly petitioner has obtained an order of interim conditional stay to the proceedings of the execution petition on payment of 25% of the execution petition amount from the Hon'ble High Court. Further vide order dated 16.03.2020, the Hon'ble High Court of Kerala has vacated the interim stay order and passed the order that “ *in the above view of the matter, it is clarified that there is no interim stay in operation*”. It is specifically written in the order dated 16.03.2020 that since the petitioner was unable to comply with the condition imposed by the order of the Hon'ble High

Court, hence stay has been vacated. Petitioner has also admitted the passing of order dated 16.03.2020. Hence, from the available records it can be seen that though there was an interim stay to the operation of the proceedings of the execution petition, the same is not in operation at present as the petitioner failed to comply the condition stipulated in the order. Since there is a specific order of the Hon'ble High Court that there is no interim stay in operation, I am of the view that there is no ground to stop the proceedings of execution petition and I do not find any error apparent on the face of the record to review the order of posting of payment. Since there is no stay to the proceedings of this Court, I am of the view that executing proceedings has to be proceeded with other wise it will cause to the irreparable injury and loss to the counter petitioner. Therefore, I do not find any reason to consider this petition. Thus, the point is found against the petitioner.

In the result, Petition is dismissed. No costs.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open court on this the 01st day of February, 2025).

Sd/-
Aswathy Nair,
Munsiff.

Appendix:- Nil.

Id/-
Munsiff

//True Copy//

Munsiff

Copied by : Jyothilekshmy.R
Compared by :