

IN THE COURT OF THE MUNSIFF OF KANNUR

Present: Smt. Manju P., Principal Munsiff.

Friday, the 29th day of October, 2021

(7th Karthika, 1943)

EA 328/2021 In EP 172/20

Puthiyatheru Urban Co-operative Society Limited,	)	
No.(c) 1661, Puthiyatheru, P.O. Chirakkal,	)	Petitioner/
Kannur-670011. Represented by its Secretary	)	Petitioner.
Sujith Kumar P.P.	)	

Vs.

Sudha M., D/o. Pokkan, aged 52 years,	)	Respondent/
“Athira”, Pallikunnu amsom desom,	)	Respondent.
P.O. Pallikunnu, Kannur-670004.	)	

This petition coming on this day for hearing before me in the presence of Sri. K. Sahadevan, Advocate for petitioner and of Smt. P. Vimalakumari, Advocate for respondent, the court passed the following:

ORDER

1. This application is filed by the petitioner who is none other than the petitioner in EP 172/2020 with a prayer to attach the salary of the respondent to realize the decretal amount of Rs.2,40,869/- with interest at the rate of 13% and penal interest at the rate of 2% for Rs.2,00,000/- per annum from 01-03-2019 till the realization of the amount and ancillary expenses through the authorised officer ie; District Social Justice Officer, Kannur-670002 and deposit the same before this Court.

2. **Brief of the Application** :- The petitioner herein who is the petitioner in the execution petition is a Co-operative Society and the petitioner is the secretary of the petitioner society. E.P 172/2020 is

filed for the execution of a decree passed by the Assistant Registrar of the Co-operative Societies, Kannur in Arbitration Case No.1109/2019 dated 17-07-2019 against the respondent. The notice which was issued to the respondent from this court in EP through registered post returned with the postal endorsement 'unclaimed'. Therefore it is highly necessary to attach the salary of the respondent to realize the decretal amount of Rs.2,40,869/- with interest at the rate of 13% and penal interest at the rate of 2% for Rs.2,00,000/- per annum from 1-03-2019 till the realization of the amount and ancillary expenses through the authorised officer ie; District Social Justice Officer, Kannur-670002 and deposit the same before this court.

3. Notice was issued to the respondent and the respondent entered appearance and filed counter statement.

4. **Brief of the Counter Statement** :- It is interalia contended that the respondent didnot receive the notice issued from this court in the EP as the same was returned with the endorsement unclaimed; that the respondent had approached the petitioner society to settle the matter and the respondent filed a declaration before the petitioner society as directed by the petitioner stating that the respondent has no objection in recovering the due amount from the respondent's Death Cum Retirement Gratuity and so the respondent was under the impression that there is no further proceedings; that the respondent came to know on 12-10-2021 that the case is pending before this court and prays for dismissing the application with cost to the respondent.

5. Heard both sides.

6. **The sole point to be considered is whether the application can be allowed ?**

7. **The Point** :- I perused the application and the counter filed. The salary certificate of the respondent is produced before this court vide order in E.A 349/2021 dated 26-10-2021 on 28-10-2021 by District Women and Child Development Officer, Kannur.

8. On perusal of the Salary Certificate of the respondent, it is decipherable that the net salary of the respondent is Rs.77598/-. After deducting the admissible deductions as provided under Section 60 (1) (i) of the Code of Civil Procedure, the attachable portion of the salary of the respondent is Rs.25,533/-. I am of the view that the prayer in the application to attach the salary of the respondent can be allowed. Hence the point is answered accordingly in favour of the petitioner.

In the result, the application is allowed and the salary of the respondent is attached as per rules. Issue direction to the Employer of the respondent to deduct such amount from the salary of the respondent every month until the decree debt with interest and cost are recovered. Incorporate the total amount to be recovered also. Recovery shall be started from the month of November, 2021. Deposit the amount on or before 5th day of every month. Take steps. Issue order to attach salary of the respondent in Form No.19 of Appendix E.

(Dictated to the Confidential Assistant,transcribed and typed by her,corrected and pronounced by me in Open Court on this the 29th day of October, 2021)

Principal Munsiff.

Compared by:

Fair Order in

EA 328/21 In

EP 172/20

Dated: 29/10/2021.

Copy of Order in
EA 328/21 In
EP 172/20
Dated: 29/10/2021.