

IN THE COURT OF THE SUB JUDGE, PALA

Present:- Smt. Rajasree Rajgopal , Sub Judge

Monday 15th day of September 2025

24th day of Bhadra 1947

EA 2/2025

in

EP 216/2023

**Petitioner/
Decree Holder:-**

1. Annies John, W/o Johny Mathew,
Cheruparambil House, Meenkunnam
Kara, Aarakkuzha Village,
Moovattupuzha Taluk.
2. Jobin C John, S/o Johny Mathew,
Cheruparambil House, Meenkunnam
Kara, Aarakkuzha Village,
Moovattupuzha Taluk.
3. Jibin John, S/o Johny Mathew,
Cheruparambil House, Meenkunnam
Kara, Aarakkuzha Village,
Moovattupuzha Taluk.
4. Vini C John, W/o Jinu Jose,
Parunthuplavil House, Nirappu Kara,
Mulavoor Village, Moovattupuzha
Taluk.

By - Adv. Sony P.Mathew.

**Respondants/
Judgment Debtors/**

1. Joyce Joseph, 52 years, S/o Joseph,
Vattamkuzhiyil House, Kozha Kara,
Kuravilangadu Village, Meenachil
Taluk.
2. Shylaja, W/o Saseendran,
Kizhakkumcherry House, Naduvile

Village, Vaikom Taluk, Represented
By Power of Attorney Holder, T.K
Rajamma, W/o Thankappan,
Karuvallil Puthenpurayil House,
Kizhakkumcherry, Vadakkemuri
Kara, Naduvile Village, Vaikom
Taluk.

By- Adv. Seby Cherian.

This petition is coming up for consideration on 15.09.2025 and the court on the same day passed the following:-

ORDER

This order is in respect of an application filed in the above execution petition. The decree holders, namely the members of the John family, have filed E.A. No. 02/2025 seeking permission to proceed with execution on the ground of default committed by the judgment debtor, Joyce Joseph. The judgment debtor, in turn, has filed objections to the maintainability of the present execution, contending that the decree under execution has merged in the compromise decree passed by the Hon'ble High Court of Kerala in RFA No.111/2024.

2. The decree holders obtained a money decree in O.S. No.4/2016 on the file of the Sub Court, Muvattupuzha, carrying interest at 7%. The judgment debtor preferred RFA No.111/2024 before the Hon'ble

High Court. On 17.12.2024, the appeal was disposed of on the basis of a mediated settlement.

3. As per the terms of settlement, the judgment debtor undertook to pay a total sum of ₹58,00,000/- to the decree holders. A sum of ₹10,00,000/- was agreed to be paid by 16.12.2024 and the balance of ₹48,00,000/- in seven instalments commencing from 30.04.2025 and ending on 30.12.2027. The settlement further stipulated that in case of default in payment of any instalment, the entire balance shall become payable forthwith with enhanced interest at 14%, and the decree holders would be at liberty to continue execution in E.P. No.216/2023 pending before this Court.

4. It is not in dispute that the initial sum of ₹10,00,000/- was paid and accepted. The controversy arises from the instalment of ₹2,50,000/- falling due on 30.07.2025. The decree holders allege that only ₹25,000/- was paid and the balance ₹2,25,000/- remained unpaid, thereby constituting default within the meaning of the compromise. They therefore seek to proceed with execution for the entire balance sum as provided in the compromise decree.

5. The decree holders argue that the compromise decree of the High Court expressly preserves their right to enforce the liability through the present execution petition in the event of default. According to them, the judgment debtor having admittedly failed to pay the instalment in full,

the condition for acceleration has come into effect, and this Court is competent to allow continuation of execution in E.P. No.216/2023.

6. The judgment debtor on the other hand contends that the compromise decree passed by the High Court has the effect of superseding and substituting the original decree of the Sub Court, Muvattupuzha. Consequently, the present execution, which is founded on the original decree, cannot be sustained. It is submitted that if the decree holders intend to proceed, they ought to file a fresh execution based on the High Court decree, and not revive the present one.

7. The main question arising for determination is:-

Whether in the light of the compromise decree passed by the High Court, the decree holders can prosecute the present execution petition on the allegation of default, or whether they are bound to initiate a fresh execution proceeding?

8. It is a settled principle that once an appellate court passes a decree, whether on merits or on compromise, the original decree merges with the appellate decree. However, the doctrine of merger does not obliterate rights expressly reserved or directions specifically made in the appellate decree.

9. In the present case, the compromise decree dated 17.12.2024 not only determined the fresh liability of the judgment debtor but also

specifically incorporated a clause that, in the event of de fault, the decree holders would be at liberty to continue the pending execution petition, namely E.P. No.216/2023 before this Court. This stipulation forms part of the decree of the Hon'ble High Court, and must be given full effect.

10. The contention of the judgment debtor that the decree holders must file a fresh execution proceeding therefore cannot be accepted. The compromise decree itself provides for continuation of the present execution. This Court, being the executing forum, is bound to enforce the decree as it stands.

11. As regards the fact of default, it is admitted by the judgment debtor that the entire instalment of ₹2,50,000 due on 30.07.2025 was not paid. Only ₹25,000 has been remitted. The default clause is therefore attracted, and the decree holders are entitled to demand payment of the entire balance amount with interest at 14% as provided in the compromise decree.

In the result,

- (i) The objection filed by the judgment debtor is dismissed.
- (ii) The application filed by the decree holders is allowed.
- (iii) It is declared that by reason of default committed by the judgment debtor in payment of the instalment due on 30.07.2025, the

decree holders are entitled to execute the decree for the entire balance sum due under the compromise decree in RFA No. 111/2024, with interest at 14% per annum from the date of default, after giving credit to payments already made.

(iv) The execution petition shall proceed accordingly.

Dictated to the Confidential Assistant, transcribed by her, corrected by me, and pronounced in open court on this the 15th day of September, 2025.

Sd/-
Rajasree Rajgopal
Sub Judge

APPENDIX: Nil

Id/-
Sub Judge

Typed by: Manju
Compd by: Sini

Rajasree Rajgopal
Sub Judge