

IN THE COURT OF THE SUB JUDGE, PALA

Present:- Smt. Rajasree Rajgopal , Sub Judge

Saturday 23rd day of August 2025
1st day of Bhadra 1947

EA 3/2024
in
EP 168/2022

Petitioner/
Judgment Debtos:-

Ajesh Gopinath, S/o Gopinath, residing at
Kuzhivelil House, Ramapuram P.O,
Ramapuram Village, Kurinji. PIN-686576

By - Adv. C.S Bissimon

Respondent/
Decree Holder:-

Ramapuram Regional Service Co-
operative Bank, Ltd. No.4111, Represented
by Secretary, Santhosh Sebastian, S/o
Sebastian, Vichattu House, Chackampuzha
P.O. PIN- 686574

By- Adv. Amal Vincent.

This petition is coming up for consideration on 23.08.2025
and the court on the same day passed the following:-

O R D E R

This petition is filed by the judgment debtor under
Section 47 CPC challenging the maintainability of EP No.168/2022
filed by the decree holder bank for execution of an arbitral award
passed under Section 69 of the Kerala Co-operative Societies Act.

2. The petitioner contends that the arbitral award was
never served on him as mandated by Rule 68 of the Kerala Co-
operative Societies Rules, 1969, and therefore, the execution
petition is void ab initio. He argues that no acknowledgment card

proving service of the award has been produced in the EP records and, consequently, the award remains unexecutable.

3. The decree holder filed an objection disputing the maintainability of the present petition. The main points urged are:

1. No duty on decree holder to serve award: Under Rule 68, the obligation to serve a copy of the award rests with the Registrar, not the decree holder. Therefore, non-service, if any, cannot be a ground to dismiss the EP as against the decree holder.

2. Award is executable on filing Form 12 certificate: The decree holder has filed the award along with a Form 12 certificate issued by the competent authority, certifying that the award has become final and executable. This certificate is sufficient to clothe the court with jurisdiction to execute the award.

3. Acknowledgment card is not mandatory: There is no requirement in the Act or Rules that the decree holder must produce an acknowledgment card as proof of service.

4. Delay and laches: EP was filed in 2022, and the judgment debtor has filed this petition after two years, only after filing an objection in October 2024, which, according to the decree holder, is an afterthought to delay execution.

4. Points for Determination:-

Whether the execution petition is liable to be dismissed for want of proof of service of the award under Rule 68 of the Kerala Co-operative Societies Rules, 1969, in view of the decree holder's reliance on the Form 12 certificate and the belated challenge raised by the judgment debtor?

5. Discussion and Finding:-

Rule 68 of the Kerala Co-operative Societies Rules mandates that the Registrar shall serve a copy of the award on the parties concerned. Strict compliance with Rule 68 is necessary since service of the award triggers the right of appeal or challenge to the award and establishes its enforceability.

6. In the present case, the decree holder has produced the Form 12 certificate issued by the Assistant Registrar, certifying that the award has attained finality and is executable. Such a certificate ordinarily implies that the statutory formalities, including service, have been complied with.

7. The decree holder is correct in contending that Rule 68 casts the duty of service on the Registrar and not on the decree holder. In execution proceedings, the court is primarily concerned with whether the award has become final and executable. When a valid Form 12 certificate is filed, the executing court can ordinarily presume that service was effected, unless the judgment debtor establishes otherwise by cogent proof.

8. The petitioner has merely asserted non-service of the award but has not adduced any evidence apart from his affidavit. The challenge is also highly belated — the EP was filed in 2022 and this petition was filed nearly two years later, after the judgment debtor had already entered appearance and filed objections in October 2024. This conduct strongly indicates that the judgment debtor was aware of the award and execution proceedings much earlier.

9. As regards the insistence on production of the acknowledgment card, no provision of law obliges the decree holder to produce such card. The Registrar's service obligation and Form 12 certificate suffice to establish executability unless there is concrete proof to the contrary.

10. Considering the above, this Court finds no jurisdictional defect in EP No.168/2022 merely because the acknowledgment card was not produced. The belated challenge appears to be an attempt to obstruct execution.

In the result, the petition is dismissed. EP No.168/2022 shall proceed in accordance with law.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 23rd day of August, 2025).

Sd/-
Rajasree Rajgopal
Sub Judge

APPENDIX: Nil

Id/-
Sub Judge

Typed by: Manju
Compd by: Kavitha

Rajasree Rajgopal
Sub Judge