IN THE COURT OF THE MUNSIFF-MAGISTRATE OF PONNANI
Present:- Smt. Sowmya T.M., Munsiff- Magistrate, Ponnani.

Wednesday, the 27th day of August, 2025
the 5th day of Bhadra, 1947

INTERLOCUTORY APPLICATION No.3/2025
IN ORIGINAL SUIT No.127/2024

Between:-

Raghavan.V.P., 58 years, S/o.Theyyunni, Variyamparambil House, Vattenadu, P.O.Koottanadu, Pattambi Taluk, Palakkad District	: Petitioner/ Respondent

And:-

Jayaprakash, S/o.Sankaran, Kottayil House, Nannammukku, Changaramkulam, Ponnani Taluk	: Respondent/ Plaintiff

This petition coming on this day for final hearing before me in the presence of Sri. N.A.Joseph Advocates for the Petitioner/ Respondent and Sri.M.R.Pradeepkumar and Smt.Anuroopa.T.C. Advocates for the Respondent/Plaintiff and this Court passed the following:-

O R D E R

This petition is filed by the defendant under Section 38 of Rule 6(2) of the Code of Civil Procedure, 1908, seeking to lift the attachment on his property and substitute it with another property belonging to his brother-in-law.

Sd/-
Munsiff-Magistrate

2. The averments in the petition, in brief, are as follows: The petitioner submits that the suit was instituted for the realization of money from the petitioner. In IA No. 2 of 2024, the respondent sought and obtained an order of attachment on the petitioner's property. The petitioner contends that he needs to sell the attached property to raise funds for his daughter's marriage. He avers that his brother-in-law has consented to offer his property, covered by Document No. 1680 of 2014, as a substitute for the attachment. The petitioner has submitted a copy of the title deed, encumbrance certificate, fair value certificate, and tax receipt for the proposed substitute property. An affidavit from his brother-in-law, consenting to the substitution and waiving any future objections, has also been filed.

3. The respondent vehemently opposes the petition, arguing that the property of a third party cannot be attached to secure the claim against the defendant. The respondent further contends that the proposed substitute property is paddy land and its value is insufficient to cover the suit claim.

Sd/-

Munsiff-Magistrate

4. Point for Determination.

1. Whether the petitioner is entitled to an order lifting the attachment on his property and substituting it with the property belonging to his brother-in-law?

5. I heard both sides.

6. The Point: The petitioner has produced a copy of the title deed, Document No. 1680 of 2014, of the property belonging to his brother-in-law. This deed shows the property is a parambu/garden land, not a paddy land as alleged by the respondent. The encumbrance certificate confirms that the proposed substitute property is free from any prior encumbrances. The Gazette notification indicates the fair value of the property is ₹5,28,000 (Five Lakh Twenty-Eight Thousand Rupees only) per Are. The consideration mentioned in the 2014 title deed was ₹12,80,000. The plaint claim is ₹8,00,000.(Rupees Eight Lakh) These facts suggest that the property has sufficient value to secure the plaint claim.

Sd/-

7. Furthermore, the petitioner's brother-in-law has filed a sworn affidavit, stating his consent to the attachment of his property and a waiver of any future claims or objections. This removes the main objection raised by the respondent regarding the attachment of a third party's property.

8. Considering the petitioner's compelling need to sell his property for his daughter's marriage and the provision of an unencumbered and valuable substitute property with the owner's explicit consent, the court finds it appropriate to grant the relief sought. The court is satisfied that the proposed substitution will adequately secure the plaint claim without causing undue hardship to the defendant. Hence, i am inclined to allow the petition.

In light of the foregoing, the petition is allowed.

a. The attachment on the property belonging to the petitioner as per the Order in IA No. 2 of 2024, is hereby lifted.
b. The property covered by Document No. 1680 of 2014, belonging to the petitioner's brother-in-law, is hereby

Sd/-
Munsiff-Magistrate

attached for the purpose of securing the plaint claim in OS No. 127 of 2024.

c.The petitioner shall bear the costs of this application.

(Dictated to the Confidential Assistant transcribed by her, corrected by me, and pronounced in open court this the 27th day of August, 2025).

Sd/-
Munsiff-Magistrate

<u>Appendix</u>: Nil

Sd/-
Munsiff-Magistrate

/True copy//

Munsiff-Magistrate

Sd/-