

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

Thursday, the 3rd day of July, 2025
the 12th day of Ashadha, 1947

INTERLOCUTORY APPLICATION No.2/2024
IN ORIGINAL SUIT No. 149/2023

Between:-

Kerala Gramin Bank, Represented by is Manager, : Petitioner/
Kalady Branch Plaintiff

And:-

Mohammed Kutty.V.K., 68 years, S/o.Moidunni : Respondent/
Musliyar, Vettikkattu House, Manoor, Kalady Defendant
amsom, Keezhmuri desom, Ponnani Taluk,
Malappuram District

This petition coming on this day for final hearing before me in the presence of Sri. A. Suresh, Smt.E.Sindhu, Smt.K.K.Suguna, Sri.Rassar Janardhanan.A and Smt.Shana P Shamsudheen Advocates for the Petitioner/ Plaintiff and Defendant not entered appearance and this Court passed the following:-

ORDER

This application has been filed by the plaintiff in the above suit under Order XXXVIII Rule 5 of the Code of Civil Procedure, 1908, seeking an order for the defendant to furnish security for the suit amount or, in default, for the attachment of the defendant's property before judgment.

Sd/-
Munsiff-Magistrate

2. The averments in the petition, in brief, are that the suit has been filed for the recovery of ₹ 1,21,737 (Rupees One Lakh Twenty one thousand Seven hundred and thirty seven) with future interest from the respondent. The petitioner states that the petitioner has reliably learned from the field officer that the respondent is trying to dispose of the property described in the petition schedule, in which the respondent has the right, title, and interest. The petitioner apprehends that this is with the intention to delay and obstruct the execution of any decree that may be passed against the respondent in the suit. The petitioner claims that failure to secure the suit amount would cause much injury and hardship in realizing the amount due as per the potential decree. Therefore, the petitioner prays for a direction to the respondent to produce sufficient security of ₹ 2,50,000 (Two lakhs and fifty thousand) to satisfy the decree, failing which the property of the respondent, as described in Document No. 1710 of 1979 of S. R. O. Edappal, may be attached.

3. It is noted from the records that despite due service of notice on the respondent, the respondent has failed to appear before this court to either

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produce sufficient security as sought by the petitioner or to show any cause as to why the property in question should not be attached.

4. The petitioner was heard on this application.

5. Order XXXVIII Rule 5 of the Code of Civil Procedure, 1908 empowers the court to direct the defendant to furnish security or order conditional attachment of their property if it is shown to the satisfaction of the court that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against them, is about to dispose of the whole or any part of their property.

6. In the present case, the petitioner has specifically averred that the respondent is attempting to dispose of the schedule property with the intention of delaying or obstructing the execution of the decree. Despite service of notice, the respondent has remained absent and has not offered any security or explanation to the court to dispel the petitioner's apprehension. This lack of response from the respondent, coupled with the specific averments in the petition, leads this court to believe that there is a potential risk that the respondent may proceed with the disposal of the

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property, which could indeed obstruct or delay the execution of a decree in favour of the petitioner.

7. Considering the facts and circumstances of the case, the averments in the petition, and the absence of any response from the respondent despite due service, this court is satisfied that it is just and necessary to pass an order for attachment of the respondent's property before judgment.

In the result,

The petition is allowed as follows.

- a. The property belonging to the respondent, as described in Document No. 1710 of 1979 of S. R. O. Edappal and detailed in the schedule to the petition, is hereby ordered to be attached for an amount of ₹ 2,00,000 (Rupees Two Lakhs Only).
- b. It is further ordered that if the respondent furnishes sufficient security to the tune of ₹ 2,00,000 (Rupees Two

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Lakhs Only) to the satisfaction of this court, the attachment order shall stand lifted.

- c. Communicate the order with the Sub Registrar Office and the Village Office concerned.

(Dictated to the Confidential Assistant transcribed by her, corrected by me, and pronounced in open court this the 3rd day of July, 2025).

Appendix: Nil

/True copy//

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