

IN THE COURT OF THE DISTRICT JUDGE OF THRISSUR

Present:

Sri. P.P. Saidalavi., District Judge.

Monday, 17<sup>th</sup> day of February, 2025/28<sup>th</sup> Magham, 1946

I.A.01/2025 in C.A. 02/2025

Petitioner/Appellant:-

Prasad Punnus, aged 73 years, S/o Punnus,  
Magalam house, Kalady Village and desom,  
Aluva Taluk, Pin-683 574.

By Advs. P.B. Rajeev & P.R. Rajesh

Respondents:-

1. BRD Finance Limited, Registered office at Bethany Complex,  
Thrissur Road, Kunnamkulam desom and Village,  
Thalappilly Taluk, Thrissur District, Pin-680 503,  
Rep. by It's Litigation Clerk Mani S., aged 56 years, S/o Sankaran,  
Mulankunnathukavu house, Konchery Road, Killannur Village,  
Mulankunnathukavu P.O., Thrissur Taluk and District.
2. Anand Kunissery, aged 52 years, S/o Sundar Augustine,  
Kunnissery house, Near Senior Ground, Kunnamkulam Village  
and Taluk, Thrissur-680 503.

This petition is coming on this day for hearing, the court passed the following:-

**ORDER**

This is a petition under Order 41 Rule 5 of Civil Procedure Code with a prayer to stay the operation of the decree and judgment in C.S.27/2023 dated 29.10.2024 of Commercial Court, Chavakkad. The suit was for realization of

Rs.13,19,293/- from the defendants with interest and costs. The 1<sup>st</sup> defendant resisted the suit by filing written statement. After trial, on 29.10.2024 the learned Judge decreed the suit. Aggrieved by the decree and judgment, the defendant filed the present appeal. *Inter alia* it is contended that the judgment and decree of the trial court is against the facts and circumstances of the case, the trial court failed to appreciate the pleading and evidence in a correct perspective. Therefore for the various grounds urged in the memorandum of appeal and other grounds urged at the time of hearing the appellant/petitioner is on bonafide belief that there is high possibility to reverse the findings of the learned trial Judge. Along with the appeal the appellant filed the present petition to stay the operation of the impugned judgment and decree till the disposal of the appeal.

2. Heard counsel for the petitioner and perused the impugned judgment and the memorandum of appeal.

3. At this stage *prima facie* I am satisfied that there are good case to argue in appeal. That be so if the impugned decree is executed, that will detrimentally affect the interest of the appellant/petitioner. The very appeal itself may become infructuous. Therefore for the time being the operation of

the impugned judgment and decree is hereby stayed for a period of four months. In the midst of his submissions the learned counsel for the appellant/petitioner submitted that there is an attachment before judgment on the property of the defendant as security for the decree which may be passed against the appellant/petitioner. Therefore no further security under Order 41 Rule 5(3) is ordered.

Issue notice to the respondents for their appearance and counter statement. Call on 29.03.2025.

(Dictated to the Personal Assistant, transcribed by her, corrected by me and pronounced in open court on this the 17<sup>th</sup> day of February, 2025).

sd/-  
**P.P. SAIDALAVI.,**  
**DISTRICT JUDGE.**

/true copy/

By Order,

Sheristadar

Copied by:jg  
Compared by:pbs