

IN THE COURT OF THE MUNSIF, KODUNGALLUR.**Present:- Smt.Karthika.K., Munsiff.**Saturday, the 28th day of March, 2026/7th Chaithram, 1947 SE**E.A.2/2026 IN E.P.563/2024 IN O.S.708/2021****Petitioner(Respondent)**

Sheena Maneesh, Aged 48, W/o. Kallikkatt Maneesh
'Krishna Vilas', Manikkath Road, M.G.Road.P.O.,
Ernakulam Village, PIN-682 016, Kanayannur Taluk,
Ernakulam District (Earlier address:- Lokamaleswaram
Village & Desom, Kodungallur Taluk.)

By Adv.P.V.Giri

Respondents/Petitioners

Sreevidya Prakasini Sabha, Methala Village, Elthuruth Desom,
Kodungallur Taluk, represented by

1. Present President, Ravi, Aged 77, S/o.Kollikkathara
Krishnan, Lokamaleswaram Village & Desom,
Kodungallur Taluk.
2. Present Secretary, Jyothirmayan, Aged 48,
S/o. Pulikkal Prabhasan, Methala Village & Desom,
Kodungallur Taluk.
3. Treasurer, Baiju, Aged 48, S/o. Airatt Lakshmanan
Methala Village & Desom, Kodungallur Taluk.

By Adv.D.T.Venkiteswaran

This petition coming on this day for hearing before me, the
court on the same day passed the following:-

ORDER

This is a petition filed under Order XXI Rule 106
of the CPC to set aside the ex parte order passed on
28.5.2025.

2. **The petition averments is as follows:-** The
petitioner is the judgment debtor in the above EP. For the past

9 years she is residing at Ernakulam with her husband and conducting a hotel business. In her house at Lokamaleswaran,Kodungallur her father, mother and brothers are residing. She often comes to her home at Lokamaleswaram to visit her father and mother. When the petitioner came to her house at Kodungallur on 08.03.2026, she saw a sale notice was affixed in her house. On going through the notice, she could learn that Sreevidya Prakashini Sabha, Kodungallur filed OS 708/21, OS 703/21, OS 710/21 and OS 711/2021 before the Munsiff Court, Kodungallur, as plaintiff and this petitioner as defendant and filed execution petitions from the decrees in those original suits as EP 563/24, EP 688/2024, EP 723/2024 and EP 724/2024 and her property was attached in the above EPs on 16.03.2026 these were posted for auction sale. The petitioner did not receive any summons or notice in the above four cases. The petitioner was unaware regarding the prosecution of these four cases till 08.03.2016. When she enquired about the cases, by contacting an advocate at Kodungallur, she could learn that the notice in EP was published in Mangalam Daily on 28.05.2025 and she was set ex parte after paper publication. She was unaware of the paper publication made against her in the newspaper. Therefore, the

ex parte order passed against the petitioner on 28.05.2025 may be set aside.

3. **The objection filed by the respondent/decree holder is as follows:-** It is not true that for the past 9 years the petitioner is residing at Ernakulam. The petitioner and her husband took loan from various financial institutions and auctioned the kuries and later defaulted the payment of loan and kuri amounts. They also refused to repay personal loan availed from many persons and without providing their correct residential address has been residing at various places. Now it is learned that they are residing at Ernakulam. Whenever the notice or summons were about to be served at her residential address, her parents would say that they were unaware of the whereabouts of the petitioner. The respondent is aware of the untimely visits of the petitioner to her house. It is utter falsehood that the petitioner come to know about the cases OS 703/21, OS 710/21 and OS 711/21, EP 563/2024, EP 688/2024, EP 723/2024, EP 724/2024 only when she saw the sale proclamation. In O.S.658/2021 the petitioner was set ex parte on 5.12.2022 and the ex parte decree was passed against the petitioner on 21.1.2025. In O.S.659/2021 the petitioner was set ex parte on 7.6.2023 and the ex parte decree was

passed against the petitioner on 8.1.2025. In O.S.660/2021 the petitioner was set ex parte on 17.2.2022 and the ex parte decree was passed against the petitioner on 19.6.2025. In O.S.661/2021 the petitioner was set ex parte on 19.9.2022 and the ex parte decree was passed against the petitioner on 11.2.2025. In O.S.704/2021 the petitioner was set ex parte on 12.4.2023 and the ex parte decree was passed against the petitioner on 11.6.2025 and in O.S.705/2021 the petitioner was set ex parte on 21.5.2024 and the ex parte decree was passed against the petitioner on 22.8.2024. The petitioner/judgment debtor is well aware of all the decrees passed against her and all the summons and notice were served affixed in the decree schedule house. The petitioner and her husband contacted the president and secretary of the decree holder institution after the decrees. But she never gave a residential address to the president or secretary of the decree holder Sabha. Therefore the allegation that the petitioner could know about the case only on 8.3.2026 is utter false. The petitioner also omitted to provide her correct address in the post office when she changed her residence. The petitioner's averment that the newspaper in which the publication was made have no circulation in her residential area and that she

was unaware of the paper publication is also false. The petitioner/ judgment debtor was well aware of the proceedings of the case. This petition is filed only to prolong the procedures of the execution, which is not permissible. The ex parte order was passed on 28.05.2025. But the petition is filed on 15.03.2026. No petition to condone the delay was filed by the petitioner. Therefore the petition may be dismissed with costs of the respondent.

4. Heard both sides.

5. Point for consideration:-

“Whether the petition can be allowed?”

6. **The point:-** In this case notice in execution petition was effected by affixture and paper publication and on 24.3.2025 the petitioner was called absent and set ex parte. The present petition is filed only on 16.3.2026. The reason stated by the petitioner is that she was unaware of the cases pending against her and the EP filed against her by the decree holder sabha. She was unaware of the paper publication. She is presently residing at Ernakulam.

7. According to the petitioner/ judgment debtor her non appearance before the court was not willful or intentional. Therefore, she is entitled to get the ex parte order against her

set aside in EP No. 563/2024. The respondent/ decree holder vehemently opposed this petition stating that the petitioner was well aware of the cases filed against her and the decree passed against her. But she intentionally omitted to appear before the court. Now she appeared only to prolong the execution proceedings of this case. No petition is filed to condone the delay in filing this petition. This petition is filed after one year of passing the ex parte order. No valid reason is stated by the petitioner for condonation of delay.

8. Upon hearing the petitioner/judgment debtor and respondent/decreed holder I am convinced that this petition is filed after 1 year of passing of the ex parte order against the petitioner. From the objection filed by the decree holder/respondent, it is known that 4 cases were filed against the petitioner starting from the year 2021. The EPs are filed in the year 2024. The averment of the petitioner that she was unaware of the cases pending against her cannot be believed at a stretch. All the notices and summons were completed in her residential address at Lokamaleswaram village, Kodungallur Taluk. She herself stated that her father, mother and brothers are residing in the house situated in the decree schedule property. Therefore, the averment that she was unaware about

all these proceedings for the past 5 years is not believable. The averments raised by the petitioner in her petition is not sufficient to conclude that her appearance before the court was not intentional. She had all the means to know the proceedings against her for the past 5 years. Therefore, I do not find any sufficient reason to set aside the ex parte order passed against the petitioner in this case. Therefore, I am not inclined to allow this petition.

In the result, the petition stands dismissed.

Dictated to the Confdl.Asst., transcribed by her, corrected by me and pronounced in open court on this the 28th day of March, 2026.

Sd/-
KARTHIKA.K,
MUNSIFF.

Appendix-NIL

Id/-
MUNSIFF
(By order)

//True copy//

Junior Superintendent

copied by:KS

compared by: