

IN THE COURT OF THE SUB JUDGE, NEDUMANGAD

Present : Smt.Rajasree C.R, Civil Judge (Senior Division)

On Thursday 18th September 2025/ 27th Bhara 1947

I.A No.4/2025 in AS 40/2020

- Petitioners/ Appellants**
- 1 Bindhu, aged 34 years, W/o. Xavior, residing at Elacode Plavila Veedu, Veeranakavu Village, Panniyode P.O., Kattakada Taluk, Thiruvananthapuram.
 - 2 Xaviour, S/o. Appukuttan, aged 46 years, residing at Elacode Plavila Veedu, Veeranakavu Village, Panniyode P.O., Kattakada Taluk, Thiruvananthapuram.

(By Adv. Sri. C.A. Nandakumar and Rekha. S. Nair)

**Counter
Petitioners/
Respondents**

1. Anil Kumar, aged 43 years, S/o. Raman Pillai, Sreevalsam, Sreekrishna Lane, Kowdiar P.O., Peroorkada, Thiruvananthapuram.
2. Shaji, aged 33 years, S/o. Chellappan Nadar, Struthi Vihar, Elaycode, Panniyode. P.O., Anakodu Muri, Veeranakavu Village.

3 Sathyanesan, aged 35 years, Manager of Raji
Driving School, Poochadivila, Kattakada.

**(By Adv. Sri.K. Uvaishkhan and W.S . Nisha for R1 and V.A. Baburaj
for R2)**

This petition having been finally heard on 18/09/2025 and the court on the same day passed the following:-

ORDER

This application is filed to implead the additional respondents 4 to 6 in the appeal.

2. Petition averments, in brief, are stated as follows: Petitioners are the appellants in the appeal and the plaintiffs in the suit. The appeal is preferred challenging the decree and judgment of the Munsiff Court, Nedumangad in OS.314/2015. The suit was filed for declaration, for cancellation of documents executed in favour of the defendants on the ground of fraud. The second petitioner/ second appellant had borrowed a sum of Rs.9,00,000/- from the first respondent and Rs.13,00,000/- from the second respondent for repayment of a loan availed from Ananthapuram Co-operative Bank. The respondents demanded the petitioners to execute a sale deed in their favour as part of the transaction. The second

petitioner was residing in 10 cents of property and the said property was transferred in favour of the second respondent. The second petitioner was taking yields from the rubber plantation in the property transferred in favour of the first defendant. Both the properties are in the possession of the petitioners. The impugned decree was passed by the Trial Court without considering the relevant facts. The respondents are highly influential persons and they have availed loan from Tamil Nadu Mercantile bank after mortgaging the plaint A and B schedule properties. The second respondent had availed loan from Bank of Maharashtra for three crores in the name of a firm. Both the respondents cunningly and fraudulently suppressed material facts. The intention of the respondents was to plunder huge amount of money from the financial institutions by mortgaging the properties, which is a subject matter of this appeal. The only intention is to defeat a legitimate decree and the judgment in the appeal. Recently, some officials came to the property, the subject matter of this appeal, and informed that they are from Canara Bank and Maharashtra bank and are the present owners in possession of the property and were acting as per the bank rules with the protection of the police. They have informed that they have no knowledge about this appeal. They have cut and removed all trees and rubber plantations in the plaint A schedule property without

considering the objection raised by the petitioners herein. On enquiry the petitioners came to know that Canara bank and Maharashtra bank have sold the properties through online auction to recover the loan amount. Hence it is highly warranted to implead the bank Manager and the authorised officer of Canara bank as parties to this litigation. Thus, this application.

3. Notices were not issued to the third parties who are sought to be impleaded in the appeal, prior to the consideration of this application.

4. The learned counsel for the respondents vehemently opposed the application stating that the proposed persons sought to be impleaded under Order I Rule 10 of the Code of Civil Procedure, 1908 are not necessary or proper parties to this litigation. No written objection has been filed by the respondents.

5. Heard both sides.

6. This application is filed by the appellants to implead the authorised manager and the Chief Manager of Canara Bank ARM branch and two persons named Mr. Akshay and Mr. Ajay son of Subash. The affidavit filed would disclose that after the dismissal of the suit, the defendants have mortgaged the property to several bank and subsequently the properties were sold by the bank for realising the loan amount and the persons sought to be impleaded as additional fifth and the

sixth respondents are the subsequent purchasers of the property. According to the petitioners, the property which were sold to the proposed additional fifth and sixth respondents are the subject matter of the appeal and so it is highly necessary to implead them in the party array.

7. It is to be noted that the suit was filed to cancel a document and for declaration. That suit was dismissed after considering the evidence let in by the parties. Subsequently, this appeal has been preferred by the plaintiffs/ petitioners against the decree and judgment. It is pertinent to note that if any transfer is made during the pendency of the appeal and if the suit is decreed in favour of the plaintiffs, then definitely there is no need to implead subsequent purchasers as they are hit by the lis pendence as the subject matter of the suit deals with an immovable property. Section 52 of the Transfer of Property Act provides that any transfer of property during the pendency of the suit or appeal does not affect the rights of the parties to the litigation. The transferee will definitely steps into the shoes of the transferrer and is bound by the decree or judgment eventually passed. There is absolutely no doubt that the transferee pendente lite is bound by the decree even if not impleaded. Moreover, there are no documents produced by the plaintiffs to disclose that the property has been mortgaged and subsequently transferred to the proposed

additional fifth and the sixth defendants. Without producing any documents convincing this Court regarding the transfer effected, there is no necessity to implead the proposed additional respondents/defendants at the stage of appeal. In the light of these reasons, I do not find any reason to allow this application.

In the result, this application is dismissed. There is no order as to costs.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court on this the 18th day of September, 2025).

Sd/-

RAJASREE.C.R,

Civil Judge(Senior Division).

Appendix: NIL

Id/-

Civil Judge, Senior Division

(True Copy)

Typed by :BR

Compd by :

Civil Judge, Senior Division

Copy of Order in

I.A.4/2025 in AS.40/2020

Dated:19.09.2025.