

IN THE COURT OF THE MUNSIFF, ATTINGAL
PRESENT: SMT. SWATHI.R.KRISHNAN, MUNSIFF
THURSDAY 22nd MAY, 2025 / 1st JAISHTA, 1947

EA 129/2024 EP.10/2014 IN OS.No. 326/2009

Petitioner/Judgment Debtor:-

Babu, S/o Appiamma, aged 54 years, Valiyavila Veedu, Kodithookkikunnu,
 X Ward, Kavalayoor P O, Manamboor Village, Varkala Taluk,
 Thiruvananthapuram.

By Advocate: Sri.T.A.Rajeev

Counter Petitioners/ Decree Holders:-

1. Muhammed Ismail @ Sainulabdeen (died) S/o Asanaru Pillai
 Munjanadu Veetil, Kavalayoor, Manamboor Village.
2. Hakkim, S/o Abdul Sathar, Chamavila Veedu, Moongodu, Manamboor Village,
 Thiruvananthapuram.
3. Nadira Beegum, D/o Abdul Sathar, Kunnumpurathu Veedu, Kaniyapuram P O
 Thiruvananthapuram.
4. Suhara, W/o Jaleel, Shaju Manzil, Attingal.
5. Najeema Beevi, D/o Abdul Sathar, Riza Manzil, Attingal.
6. Rafeeka, D/o Abdul Sathar, Sara Cottage, Kavalayoor.
7. Nazar, S/o Abdul Sathar, Panakkonathuputhevedu, Kavalayoor P O.
8. Nazeer, S/o Abdul Sathar, Nadiya Manzil, Kottiyodu, Thampanoor Lane, Attingal.
9. Basheer, S/o Abdul Sathar, Ajmal Manzil, LMS Junction, Attingal.

Addl.10th

Purushothaman.K, aged 73 years, S/o Chakki, Kattuvila Veedu,
 Koduthookkikunnu, Kavalayoor P O, Manampoor Village, Kavvalayur,
 Thiruvananthapuram Pin-695144.

Addl.11th

Pankajakshi @ Panki, aged 65 years, D/o Chakki, Kattuvila Veedu,
 Koduthookkikunnu, Kavalayoor P O, Manampoor Village, Kavvalayur,
 Thiruvananthapuram Pin-695144.

Addl.12th

Lakshmi.C, aged 64 years, D/o Chakki, Kattuvila Veedu,
 Koduthookkikunnu, Kavalayoor P O, Manampoor Village, Kavvalayur,
 Thiruvananthapuram Pin-695144.

Addl.13th

Thankachi, aged 63 years, D/o Chakki, Kattuvila Veedu,
 Koduthookkikunnu, Kavalayoor P O, Manampoor Village, Kavvalayur,
 Thiruvananthapuram Pin-695144.

Addl.14th

Muhammed Farook, aged 59 years, S/o Muhammed Ismail , Aamina Manzil,
Kavalayoor P O, Manampoor Village.

Addl.15th

Jameela Beevi, aged 61 years, D/o Muhammed Ismail , Nedumkattil Veedu,
Pullampara P O, Manikkal Muri, Manikkal Vilalge, Nedumngadu

Addl.16th

Safiya Beevi, aged 61 years, D/o Muhammed Ismail, Sulfath Bungalow,
Peringamala P.O, Peringamala Village , Nedumangadu

Addl.17th

Laila Beevi, aged 59 years, D/o Muhammed Ismyil, Polimelkonathu Veedu,
Kaithodu P.O, Nilamel Village, Kottarakkara Taluk, Kollam District

Addl.18th

Naseera Beevi, aged 58 years, D/o Muhammed Ismail, Vadakkevila Veedu,
Njarayilkonam P.O, Madavoor Desom and village, Varakala Taluk

Addl.19th

Shaila Beevi, aged 50 years, S/o Muhammed Ismail, Mudakkal Desom and
Village, Chirayinkeezhu Taluk

Addl.20th

Junaitha Beevi, aged 49 years, D/o Muhammed Ismail, Aarifa Manzil,
Kavalayoor P.O, Manamboor Village

Addl.21st

Rajila Beevi, aged 43 years, D/o Muhammed Ismail, Kalluvettankuzhi Veedu,
Mathira P.O, Mangodu Village, Kottarakkara

Addl.22nd

Jaseela Beevi, aged 41 years, D/o Muhammed Ismail, Aarifa Manzil, Kavalayoor
P.O, Manamboor Village.

By Advocate: Sri.G.Surendran

This petition having been heard on 26.03.2025 and the court on 22.05.2025 passed the following:

ORDER

This is a petition filed under Order I Rule 10 of CPC.

2. **The petition averments are as follows:** The petitioner is the judgment debtor in the execution petition. Petitioner's mother Appi Amma filed claim petition E.A.159/2022 in this EP. Appi Amma passed away on 28.08.2024 leaving behind the petitioner as her sole surviving legal heir. Hence this petition to

implead the judgment debtor/ petitioner herein as additional 2nd claim petitioner.

3. **The decree holder filed an objection contending as follows:** The petition is not maintainable either under law or on facts. The petitioner is the defendant in O.S.326/2009. The defendant already raised the rights of his mother Appi Amma in the written statement in O.S.326/2009 and the judgment and decree were passed on merits after considering all those contentions. Claim petitioner subscribed her signature in partition deed No.2919/1959. Hence the claim petition is barred by law of limitation. The claim petitioner sought the relief of setting aside the judgment and decree of Hon'ble Sub Court. This Court does not have the jurisdiction to consider such a prayer. The judgment debtor could not at the same time represent himself as the claim petitioner. Hence this petition may be dismissed with costs.

4. Following points are raised for consideration:

1. Can the petition be allowed ?

2. Reliefs and costs ?

5. Heard both sides.

6. **Point No.(1):** This petition is filed by the judgment debtor to implead him as additional 2nd claim petitioner since his mother Appi Amma, the original claim petitioner expired. The decree holder objected to the petition contending that the judgment debtor does not have right to represent the claim petitioner since he himself is the defendant in the original suit. They also contended that all the

contentions raised by the claim petitioner is raised by judgment debtor in the written statement. The question that has to be considered is whether the judgment debtor has a right or claim that is distinguishable from his status as that of the defendant/ judgment debtor. The claim petitioner ought to have an independent right or claim over the decree schedule property. All the contentions raised by the claim petitioner was already raised by the judgment debtor in the original suit. Hence the claim /right/status can in no manner be distinguished from the petitioner's right as defendant/ judgment debtor. Hence this court is of the view that there are no sufficient grounds to allow this petition.

7. **Point No.(2):** In view of the above discussion, the petition is dismissed with costs.

Dictated to the Confidential Assistant, transcribed and typed by her corrected and pronounced by me in open Court on this the 22nd day of May 2025

Sd/-

SWATHI. R. KRISHNAN
MUNSIFF

Appendix: Nil

Id/-

MUNSIFF

//True Copy//

Typed by: Sheena K
Compared by: Shilpa.K S

MUNSIFF