

**IN THE COURT OF THE MUNSIFF, VARKALA**  
**PRESENT: Sri. ARAVIND. P., MUNSIFF**  
**SATURDAY, 18<sup>th</sup> OCTOBER 2025/ 26<sup>th</sup> ASWINA, 1947**  
**CLAIM PETITION I.A. 2859/ 2019 IN O.S. 506/2017**

**PETITIONER/ CLAIM PETITIONER**

1. Francis, aged 41 years, S/o. John, Thittayil Veedu, Mampally.
2. Binu Mol, aged 33 years, W/o. Francis, ....do...do....

**By Adv. Sri. Sureshkumar. P. S.**

**RESPONDENT**

1. Manager, Gramin Bank, Kadakkavoor Branch, Kadakkavoor (Plaintiff)
2. Suseela, aged 32 years, D/o. Abraham, Sachu Nivas, Pallipurayidam, Kochumethankadavu, Anchuthengu (Defendant)

**By Adv. Sri. V. Ajayakumar for R1**

**R2 dismissed on 7/4/2025**

This Petition having been finally heard on 18/10/2025 and the court on the same day and passed the following.

## ORDER

This is a petition filed under Order XXXVIII Rule 8 of the C.P.C.

2. **Brief averments in the affidavit are as follows:-** The petitioners are husband and wife. As per order in I.A.2842/2017, the property comprised in resurvey no.82/2-11-3-1 which is having an extent of 9 cents is owned and possessed by the claim petitioners by virtue of sale deed no.346/2014 dated 21.03.2014 of Kadakkavoor S.R.O.

3. The first respondent suppressed that fact and obtained an order of attachment. So the present petition is filed for lifting the attachment ordered in the property comprised in resurvey no.82/2-11-3-1. Hence the petition.

4. The first respondent appeared and filed objection. **Brief averments in the objection filed by the first respondent are as follows:-** Petition is not maintainable either in law or on facts. The property is not scheduled. The attached property is situated in Anchuthengu village in resurvey no.82/1-11 which is having 4.05 ares of property. Apart from that, the property comprised in resurvey no.76/2 which is having an extent of 1.62 ares of property. The above mentioned properties are not described in the claim petition. The attached property and the property mentioned in the claim petition are entirely different. If the second respondent executed sale deed in favour of the claim petitioners, that is with an intend to defraud the first respondent. So the objection of the first respondent concluded with a prayer to dismiss the petition.

5. On the basis of the rival contentions, the following points

arise for consideration:

1. Are the petitioners entitled to get an order lifting the attachment ordered as per order in I.A. 2842/2017 dated 21.05.2024?

2. Reliefs and costs?

6. When the petition was posted for evidence, the first claim petitioner was examined as PW1 and Ext.X1 and X2 were marked. No evidence adduced from the side of the respondents.

7. The court heard the learned counsel for the petitioners, learned counsel for the first respondent and perused the records.

8. **Point No.1:-** Case of the claim petitioners is that they have purchased the property comprised in resurvey no.82/2-11-3-1 which is having 9 cents as per sale deed no.346/2014 of Kadakkavoor S.R.O dated 21.03.2014. Ext.X2 would go to show that they have remitted tax on 17.09.2019 for the property comprised in resurvey no.82/2-11-3-1. So the learned counsel for the claim petitioners prayed for allowing the petition.

9. At the same time, the learned counsel for the first respondent submitted that the claim petitioners are not entitled to get any favourable order. So the learned counsel prayed for dismissing the petition.

10. This court considered the contentions in detail.

11. It is important to note that as per Ext.X1 the claim petitioners have purchased the proeprty in the year 2014 itself. Ext.X2 would go to show that they have remitted tax. The attachment schedule would go to show that the properties comprised in resurvey 82/2-11 and resurvey no.76/2 were attached. So the property mentioned in claim petition is entirely different from the property mentioned in the

attachment schedule. So this court is of the view that the petition can be allowed and the attachment order passed against property mentioned in claim petition can be lifted. Point no.1 is found in favour of the petitioners and found against the first respondent.

12. **Point No.2:-** Considering the facts and circumstances of the petition, both parties are directed to suffer their respective costs. Point no.2 is found accordingly.

**In the result, petition is allowed as follows:**

1. The attachment passed as per order in I.A.2842/2017 dated 21.05.2024 with regard to the property comprised in resurvey no.82/2-11-3-1 having an extent of 9 cents at Anchuthengu village in Chirayinkeezh taluk (Kadakkavoor S.R.O) is hereby lifted .
2. The office is directed to communicate the copy of this order to the concerned Sub Registrar Office and Village Office with details of the property.
3. No order as to costs.

*(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in Open Court, this the 18<sup>th</sup> day of October, 2025)*

**ARAVIND.P,  
MUNSIF**

**APPENDIX :**

**EXHIBITS FOR THE CLAIM PETITIONER**

- X1 - Certified copy of Sale deed No 346/2014 of  
Kadakkavoor S. R. O. dated 21/3/2014
- X2 – Tax receipt of Anchuthengu Village Office,  
dated 17/9/2019

**EXIBITS FOR THE RESPONDENT** - Nil

**WITNESS FOR THE CLAIM PETITIONER**

PW1 – Francis dated 26/11/2024.

**MUNSIFF**

**Copy of Order in I.A. 2859/2019 in O.S. 506/2017**  
**Dated: 18.10.2025**