IN THE COURT OF THE MUNSIFF-MAGISTRATE, SULTHANBATHERY

Present: Smt. Gale Joy Chettupuzha, Munsiff-Magistrate

Wednesday, the 18th day of Feburary, 2026
29th day of Magha – 1947

INTERLOCUTORY APPLICATION No.3/2024
ORIGINAL SUIT No.143/2024

Indian Overseas Bank, Kalpetta Branch, Kalpetta North Post, Kalpetta amsom, Vythiri Taluk, Wayanad District, represented by its Branch Manager.	Petitioner/ 3rd party
V/s.	
1. Noufal P.R., aged 41 years, Puthanpurayil House, Meenangadi Post, Purakkadi amsom, Sulthanbathery Taluk, Wayanad District. 2. Jayaprakashan P., aged 54 years, S/o.Kelu, Ponnarath Veedu, Kuttiyattoor, Kallar, Thaliparamaba, Kannur District.	Respondents/ Plaintiff and Defendant

This Interlocutory Application is coming on this day for hearing before me in the presence of Sri.P.Chathukutty and Sri.Jacob Varghese, Advocates for the petitioner and Smt. U.K.Priya, Advocate for R1 and Sri.Sumesh P.M., Advocate for R2 and the Court on the same day passed the following:-

ORDER

This is a petition filed under Order I Rule 3 read with Section 151 of the Code of Civil Procedure seeking to implead the proposed party, namely Indian Overseas Bank, Kalpetta Branch, as an additional party to the suit.

2. **Petition averments are as follows**:- The petitioner is the present Manager of Indian Overseas Bank, Kalpetta Branch, and claims to represent the Bank. It is contended that the suit has been filed in a collusive manner to protect the interests of one Jayaprakash, who had mortgaged the plaint schedule property to the Bank in connection with a financial facility. According to the petitioner, the property attached in the present suit forms part of the mortgaged assets and that the Bank had initiated proceedings under Section 13(2) of the SARFAESI Act and conducted an auction sale of the property. It is stated that one Ashokan, S/o Raghavan, was declared as the successful bidder and that a sale certificate was issued upon full payment of the bid amount. However, due to the subsisting order of attachment in the present suit, the Bank could not fully effectuate the sale or realise the entire loan amount. It is further contended that the Bank is a necessary and proper party, since the reliefs sought in the suit directly affect the mortgaged property and the rights claimed under the sale certificate. The petitioner also raised a contention regarding pecuniary jurisdiction.

3. The second respondent/first defendant filed a counter opposing the petition. It is contended that the suit is one for recovery of money based on a promissory note and that there is no necessity to implead the petitioner Bank. It is further stated that proceedings have already been initiated before the Debts Recovery Tribunal, Ernakulam, in S.A. No. 362/2024 challenging the sale certificate issued in favour of the auction purchaser and that the matter is pending consideration. It is alleged that the petitioner has suppressed this fact. It is also contended that the schedule property continues to remain in the possession and ownership of the respondent and that various proceedings are pending before competent forums in relation to the same. Hence, it is argued that the petitioner has no locus standi to seek impleadment.

4. Heard both sides and records are perused.

5. The question that arises for consideration is whether the proposed party is a necessary or proper party to the suit within the meaning of Order I Rule 10 of the Code of Civil Procedure.

6. A necessary party is one without whom no effective decree can be passed, and a proper party is one whose presence is required for a complete and final adjudication of the questions involved in the suit. The nature of the suit in O.S. No. 143/2024 is one for recovery of money based on a promissory note executed by the first defendant. The primary issue to be adjudicated is the liability of the defendant to pay the amount claimed therein.The Bank's contention is that the plaint schedule property is a mortgaged asset and that auction proceedings have been conducted under the SARFAESI Act. It is evident from the pleadings that independent proceedings are pending before the Debts Recovery Tribunal challenging the sale certificate and connected matters. The validity of the SARFAESI proceedings, the sale certificate, and the competing claims over the property are all matters falling within the jurisdiction of the Debts Recovery Tribunal under the special statute.

7. In the present suit, the Court is not called upon to adjudicate the title to the property or the validity of the SARFAESI proceedings. The relief sought is confined to recovery of money. Even if an attachment has been ordered in the suit, the rights of a secured creditor under the SARFAESI Act and the remedies available to the Bank are governed by the special enactment, and such rights can be worked out before the appropriate forum. In these circumstances, this Court is

of the view that the petitioner Bank is neither a necessary party nor a proper party for the effective adjudication of the issues involved in the present suit. The questions raised by the petitioner relate to independent rights claimed under the SARFAESI Act, which are already the subject matter of proceedings before the competent Tribunal. The apprehension of prejudice, if any, can be addressed in accordance with law before the appropriate forum.

Accordingly, this I.A. is dismissed. No order as to costs.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and Pronounced in open Court on this the 18th day of February, 2026.)

MUNSIFF-MAGISTRATE

Appendix: Nil.

MUNSIFF-MAGISTRATE

Typed by : Haseena K.A
Compared by : Girija T.N