

IN THE COURT OF SUBORDINATE JUDGE, ERANIEL.
Present : Tmt. D. Asha Kousalya Shanthini, B.Sc., B.L.,
Subordinate Judge, Eraniel.

Tuesday, the 11th day of November 2025

E.A.No.2/2025
in
E.P.No.7/2024
in
O.S.No.79/2023

M. Kumar

.... Petitioner/Plaintiff

.Vs.

Remya

.... Respondent/defendant

This petition coming up for final hearing on this day in the presence of Thiru. M. Bino Vins Kumar, Advocate for Petitioner and Thiru. K. Padmakumar, Advocate for respondent and upon hearing the arguments of both sides and upon perusing the records and having stood over for my consideration till this day, this court delivers the following:

ORDER

1. The petitioner/deed holder seeks for amendment of the Execution petition to include the mortgage details in column no.6 and to include the building also in the execution petition in addition to the vacant plot that was mentioned earlier. The respondent/ judgment debtor who has remained exparte in the main E.P. is served with the copy of the present I.A. and has filed his counter.

Heard both sides and records perused.

2. Now the point to be answered is whether the present E.A. is to be allowed or not?

3. The learned counsel appearing for the petitioner submitted that non mentioning of the details of കൂറ in column no.6 and non inclusion of the building in the E.P. schedule property were only typographical errors but not typical errors made intentionally, which are to be now amended for realizing the fruits of his

decree. In the counter filed by the respondent/judgment debtor there is no denial about the said mortgage and the presence of a building in the E.P. schedule property.

4. On the other hand, the learned counsel appearing for the respondent just submitted that the petitioner has purposely suppressed the presence of the house in the plaint schedule property, because, even when the suit was filed, a house was found in the plaint schedule property, who cannot be permitted to include the house now in the E.P. schedule property by way of amendment.

5. The objections raised by the respondent is found not acceptable in the present case, because, on perusal of the judgment passed in O.S. No. 79/2023 on 24.01.2024, it is seen that the present respondent/defendant remained exparte in the main suit which was filed for recovery of money based on the promissory note in which the plaintiff/present petitioner relied upon the promissory note, suit notice and the acknowledgment card only. Hence there is no possibility of the plaintiff /petitioner knowing the details of the defendant's property as to whether it has a building or not and whether it had any encumbrance like mortgage etc. In such cases, the decree holder coming to know about the said details about the judgment debtor's property during the time of execution proceedings cannot be found fault with, which is highly unreasonable too.

Considering the facts and circumstances of the present case, for the above said reasons, for the petitioner/decreed holder who is found entitled for enjoying the fruits of the decree, this executing court is inclined to allow the present E.A. as prayed for.

Accordingly, the E.A. is allowed. No costs.

Pronounced by me in open court on this the 11th day of November 2025.

Sd/-
Subordinate Judge,
Eraniel.