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A.R.No.249 of 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE S.MANU

TUESDAY, THE 30TH DAY OF JUNE 2026 / 9TH ASHADHA, 1948

AR NO. 249 OF 2025

PETITIONER:

MR.JIBU JOHN
S/O P. U. JOHN, RESIDING AT PONANNIKATT HOUSE,
JOYS VILLA, 23, PULARI NAGAR,
THRIPUNITHURA - ERNAKULAM DISTRICT, PIN - 682301

BY ADVS.
SHRI.BHARATH MURALI
SHRI.MANU NAIR G.
SRI.THOMAS P.MAKIL
SHRI.AJAY SANKAR
SHRI.SIDHARTH MURALI

RESPONDENT:

MR. BIJU RAJU
AGED 33 YEARS, S/O A. M. RAJU,
RESIDING AT ATHANICKAL HOUSE, DHANWANDIRI NAGAR,
THRIPUNITHURA - ERNAKULAM DISTRICT., PIN - 682301

BY ADVS.SHRI.VARGHESE C.KURIAKOSE
SMT.AMRITHA.J
SHRI.KURUVILLA MATHEW
SHRI.VIPIN C. VARGHESE
SMT.MARIYA MATHEW

THIS ARBITRATION REQUEST HAVING COME UP FOR
ADMISSION ON 23.06.2026, THE COURT ON 30.06.2026
DELIVERED THE FOLLOWING:



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S.MANU, J.

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Dated this the 30th day of June, 2026

ORDER

Petitioner and the respondents are relatives. It is alleged that the respondent approached the petitioner during June-July 2016 for financial assistance, promising that the borrowed amount would be repaid, once his or his father's family properties are sold. Petitioner states that between 30.6.2016 and 21.7.2016 he advanced a total sum of Rs.88,00,000/- to the respondent. The respondent executed a promissory note in favour of the petitioner on 1.10.2017 for an amount of Rs.88,00,000/- with 9% interest per annum. Later, in lieu of the promissory note, a cheque dated 1.3.2020 was issued for an amount of Rs.1,09,13,215/-. However, the petitioner was requested not to present the cheque for encashment on the assurance that the payment would be settled in a short time.



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2. According to the petitioner, on 7.10.2022, with the intervention of family members and well-wishers, an agreement was executed between him and the respondent whereby the respondent admitted the liability and agreed for a structured settlement and repayment plan. A copy of the agreement has been produced as Annexure-I. In clause 1 of the agreement, the total liability as on that date was stated as Rs.1,29,36,340/-. The petitioner submits that the respondent agreed to convey to him an extent of 2.55 Ares of land in Sy.No.845/9 of Nadama Village within a period of 2 years in partial discharge of the liability and also agreed to pay the balance amount less the value of the property, Rs.72,66,340/- subject to deductions towards registration and stamp duty together with interest at 7.5% per annum within two years from the date of execution of the agreement. Petitioner further states that the respondent handed over original title deeds of the property to him after execution of the agreement. Nonetheless, the property was not



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conveyed within the mutually agreed period of two years. Since the respondent committed default, the petitioner invoked the arbitration clause in Annexure-I agreement and issued Annexure-II notice on 22.9.2025. The said notice was received and the respondent issued Annexure-V reply dated 27.9.2025. The respondent alleged that no valid agreement was ever executed. The respondent refuted all allegations in Annexure-II and raised serious counter allegations by issuing the reply. Therefore, seeking nomination of an arbitrator by this Court, this arbitration request was filed.

3. Respondent entered appearance and filed an elaborate counter affidavit refuting the contentions of the petitioner and raising serious allegations against him including that of forgery pertaining to Annexure-I agreement. A reply affidavit was filed by the petitioner denying the allegations and averments in the counter affidavit.



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4. Heard the learned counsel for the petitioner and the learned counsel for the respondent. Perused the pleadings and documents.

5. The respondent vehemently disputes the contention of the petitioner that Annexure-I agreement was executed between the petitioner and him. As per the case of the respondent, it is a forged document. The respondent submits that he has initiated criminal proceedings against the petitioner for committing forgery. Crux of the contention of the respondent is that there is no valid arbitration agreement between the parties and therefore this arbitration request is not liable to be entertained. The petitioner, however, asserts that Annexure-I was executed with the intervention of relatives and well wishers and contends that the respondent subsequently turned around and denied the same in order to escape from the obligations under the agreement. Learned counsel for the



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petitioner, as also the learned counsel for the respondent pointed out various circumstances in support of their respective contentions with reference to the sequence of events and documents produced before this Court. In effect this Court has been called upon to decide whether Annexure-I is genuine or not.

6. The jurisdiction under Section 11 of the Arbitration and Conciliation Act is a restrained one. Scope of inquiry by this Court is narrow and well-defined. This Court cannot undertake any intricate enquiry into disputes like the one raised in the instant case.

7. The learned counsel for the petitioner relied on the following judgments of the Hon'ble Supreme Court:

1) **Maharashtra State Electricity Distribution Company Limited (MSEDCL) and Others v. R.Z. Malpani** [2026 SCC OnLine SC 553].

2) **New India Assurance Company Limited v. Genus Power Infrastructure Limited** [(2015) 2 SCC 424].



8. The learned counsel for the respondent relied on the following judgments:-

- 1) **Narendra Singh v. Ashendra Mishra and another** [2020 KHC 3662]
- 2) **Ravindra Savia v. Avitel Post Studioz Ltd. and others** [2016 KHC 4327]
- 3) **State of Uttar Pradesh v. R.K.Pandey** [2025 KHC 6030]

9. I have carefully examined the judgments cited by both sides. I find it apposite to extract the following paragraphs from the recent judgment of the Hon'ble Supreme Court in **Maharashtra State Electricity Distribution Company Limited (MSEDCL) and Others** (supra):-

"21. As such, the pronouncement of this Court in SBI General Insurance Co. Ltd. (Supra) lays down a clear and comprehensive explanation about the scope of examination at the stage of Section 11 proceedings: it is limited to finding a prima facie existence of arbitration agreement and nothing beyond it. Questions of 'accord and satisfaction', limitation, dishonesty and frivolity, arbitrability of the subject-matter are to be left to the adjudication by the arbitral tribunal under



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Section 16 of the 1996 Act which is a reflection of the doctrine of 'Kompetenz-Kompetenz' or 'competence de la competence'. It is therefore incumbent upon us to only examine the prima facie existence of an arbitration agreement.

.....
42. It goes without saying that the scope of inquiry at the stage of Section 11 is extremely limited and only pertains to an examination about prima facie existence of an arbitration agreement. Judicial non-interference in the arbitration process is the sacrosanct principle which guides alternative dispute resolution and Courts must be highly circumspect in interfering at the referral stage, especially since there is no appeal available in the 1996 Act against an order under Section 11. The Arbitral Tribunal, in exercise of its jurisdiction under Section 16 must be left to decide on its jurisdiction. The Courts should follow the principle of 'When in doubt, do refer' and lean towards referring matters to arbitration when the arbitration agreement is prima facie existent. However, it is only in the rarest of rare cases where even on a prima facie view, without going into disputed facts between the parties, there appears to be no existence of arbitration agreement between the parties, the Court can reject the application for appointment of an arbitrator and reference of the parties to arbitration. The instant case appears to be a fit case where, as discussed, even without going into the disputed facts and merely on a prima facie view of the matter, there is no existence of arbitration agreement and therefore, the decision of the High Court to appoint an arbitrator requires interference."

10. The Hon'ble Supreme Court has unequivocally held in the judgment that questions of 'accord and satisfaction',



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limitation, dishonesty and frivolity, arbitrability of the subject matter are all matters to be left for adjudication by the arbitral tribunal. Under Section 11 of the Act, the reference court needs to examine only the prima facie existence of an arbitration agreement. Further, the Hon'ble Supreme Court held that the courts should follow the principle of 'when in doubt, do refer'. It was also held that courts should lean towards referring matters to arbitration when the arbitration agreement is prima facie existent.

11. In view of the guidance available in **Maharashtra State Electricity Distribution Company Limited (MSEDCL) and Others**(supra), I am of the view that no elaborate reference to the other judgments cited by both sides is required.

12. In the case at hand the petitioner asserts that Annexure-I is an agreement executed between him and the respondent. The respondent vehemently denies the same. Nevertheless, it is indisputable that there were transactions



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between the parties. The assertion that the title deed of the property of the respondent was handed over to the petitioner is not denied. The learned counsel for the petitioner handed over a copy of the said title deed at the time of hearing for perusal by the court. It is pertinent to note that in Annexure-I agreement the understanding was to convey the property to the petitioner within two years. The circumstances under which the title deed was handed over to the petitioner is not at all explained by the respondent in his counter affidavit or during the course of arguments. In these circumstances, I am of the considered view that the parties should be referred for arbitration as prima facie existence of the arbitration agreement is the plausible inference. The disputes including that regarding genuineness of the agreement and arbitrability of disputes can be considered by the learned arbitrator.

13. In the light of the foregoing discussion, the arbitration request is allowed. Hence the following directions are



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issued:-

1. The Kerala High Court Arbitration Centre is directed to nominate a sole Arbitrator from Panel-I, preferably from Ernakulam, to resolve the disputes that have arisen between the petitioners and the respondents under Annexure-I Agreement.
2. The learned Arbitrator may entertain all issues between the parties in connection with the said Agreement, including questions of jurisdiction and limitation, if any, raised by the parties. All contentions of the parties are left open and they are at liberty to raise their claims and counterclaims, if any, before the learned Arbitrator, in accordance with law.
3. The Registry shall communicate the substance of this order to the Kerala High Court Arbitration Centre within ten days and the Centre shall inform the learned Arbitrator within a further period of one week and shall obtain duly signed Form 3 as required under Rule 20(4) of the Kerala High Court (Arbitration Centre) Rules,



2025 and forward the same to this Court.

4. Upon receipt of the Form 3, the Registry shall issue a certified copy of this order with a copy of the Form 3 appended to the Kerala High Court Arbitration Centre. The original of the Disclosure Statement shall be retained by the Kerala High Court Arbitration Centre.
5. The fees of the learned Arbitrator of the Kerala High Court Arbitration Centre shall be governed by Rule 28 of the Kerala High Court (Arbitration Centre) Rules, 2025. The manner in which the fees and costs payable by the parties shall be governed by Rule 27 of the Kerala High Court (Arbitration Centre) Rules, 2025.
6. If the learned Arbitrator needs the assistance of an expert, then he is at liberty to seek such assistance in the course of the arbitration proceedings.

Sd/-
S.MANU
JUDGE

skj



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APPENDIX OF AR NO. 249 OF 2025

PETITIONER'S ANNEXURES

Annexure I	A TRUE COPY OF THE AGREEMENT DATED 07.10.2022
Annexure II	A TRUE COPY OF THE NOTICE DATED 22.09.2025
Annexure III	A TRUE COPY OF THE POSTAL RECEIPT DATED 22.09.2025
Annexure IV	A TRUE COPY OF THE POSTAL RECEIPT DATED 22.09.2025
Annexure V	A TRUE COPY OF THE REPLY NOTICE DATED 27/9/2025

RESPONDENT'S ANNEXURES

Annexure R1(a)	True copy of the publication effected in Mangalam daily dated 13.10.2022
Annexure R1(b)	True copy of the certificate dated 25.11.2022 issued by the Mulamthuruthy Police
Annexure R1(c)	True copy of the certificate dated 16.12.2025 issued by Union Bank of India, Tripunithura branch
Annexure R1(d)	True copy of the certificate issued by Peoples Urban Cooperative bank
Annexure R1(e)	True copy of the declaration dated 11.08.2021 given by the respondent before Union Bank of India
Annexure R1(f)	True copy of the signature attestation certified by the Peoples Urban Cooperative Bank
Annexure R1(g)	True copy of the first page of the passport containing the signature of the respondent



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- Annexure R1 (h) True copy of the complaint dated 24.01.2026 submitted by the respondent before SHO Hill Palace Police Station, Tripunithura
- Annexure R1 (i) True copy of the complaint dated 29.01.2026 submitted by the respondent before Assistant Commissioner of Police Thrikkakkara.
- Annexure R1 (j) True copy of the complaint dated 04.02.2026 submitted by the respondent before the Commissioner of Police, Kochi City.
- Annexure R1 (k) True copy of the C.M.P.No.64/2026 dated 18.02.2026 on the files Judicial First Class Magistrate Court, Tripunithura filed by the respondent

PETITIONER'S ANNEXURES

- Annexure VI A true copy of the original previous sale deed dated 20.05.2013 with respect to the schedule of property
- Annexure VII The true copy of the original cheques dated 01.03.2020 bearing no 121748 issued by the respondent to the applicant
- Annexure VIII The copy of the documents issued by the various Govt Authorities relating to the conversion the scheduled property
- Annexure IX A true copy of the extract of Malayalam Newspaper dated 11.09.2021 depicting the advertisement given by the claimant
- Annexure X A true copy of the settlement deed dated 10.01.2025 registered before Sub registrar Office, Thripunithura executed by the claimant
- Annexure XI A true copy of the criminal complaint dated filed by the applicant against the respondent before Thripunithura Police Station and it received receipt



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Annexure XII A true copy of the extract of the
Passbook of the petitioner's bank
account showing the transaction

RESPONDENT'S ANNEXURES

Annexure R 1(I) TRUE COPY OF THE FIR IN CRIME
NO.156/2026 OF HILL PALACE POLICE
STATION, THRIPPUNITHURA DATED
06/03/2026