Case Citation: (2026) ibclaw.in 6166 HC

2026:KER:77410



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 7TH DAY OF OCTOBER 2026 / 15TH ASWINA, 1948

WP(C) NO. 39051 OF 2025

PETITIONER/S:

KALLETTUMKARA SERVICE CO-OPERATIVE BANK LTD.
NO.141
KALLETTUMKARA P.O., THRISSUR , REPRESENTED BY ITS SECRETARY., PIN - 680683

BY ADVS.
SMT.NISHA GEORGE
SRI.GEORGE POONTHOTTAM (SR.)
SHRI.ANSHIN K.K

RESPONDENT/S:

1 M/S JMJ FINANCE LIMITED
DOOR NO.25/469/23, 3RD FLOOR,
POOMA COMPLEX, NADUVILAL JUNCTION, M.G.ROAD,
THRISSUR , REPRESENTED BY ITS DIRECTOR
SHAJI T.D, PIN - 680001

2 RAJITHA
W/O SHAJI, PANIKKASSERY HOUSE, LOKAMALESWARAM,
KODUNGALLUR, THRISSUR, PIN - 680664

3 PRAVEEN PAUL CHANDY
ARBITRATOR, ALUKKAS CASTLE, AYYANTHOLE,
THRISSUR, PIN - 680683

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4 THE SUB-REGISTRAR
OFFICE OF THE SUB- REGISTRAR, KALLETTUMKARA,
THRISSUR DISTRICT, PIN - 680003

SRI UNNI SEBASTIAN KAPPEN, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07.10.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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**P.V.KUNHIKRISHNAN, J.**
**----------**
**W.P.(C).No.39051 of 2025**
**----------**
**Dated this the 07th day of October, 2026**

## JUDGMENT

This writ petition is filed with following prayers:

i) Issue a writ of certiorari or appropriate writ, order or direction calling for the records leading to Exhibit P5 order and quash the same;

ii) Issue a writ directing the 4th respondent to delete/modify the entries in the Encumbrance Certificate with respect to Exhibit P5 order and to permit the sale, attachment or any manner of encumbrance over the property ignoring Exhibit P5 order;

iii) Issue a writ declaring that the 4th respondent is not bound to enforce Exhibit P5 order, without an order from a competent civil court having jurisdiction;

iv) Issue a writ declaring that only civil courts have the power to enforce the interim orders passed by Arbitrators under the provisions of the Arbitration and Conciliation Act, 1996;

v) Dispense with the filing of English translation of vernacular documents;

vi) Any other order or direction that this Hon'ble Court would deem fit to issue in the interest of justice.

*(SIC)*

2. Petitioner is a Primary Credit Society as defined in the Kerala Co-operative Societies Act, 1969. This writ petition is filed challenging an interim order passed under Section 17 of the Arbitration and Conciliation Act, 1996 which contains a direction for enforcement of the order passed by the 3rd respondent Arbitrator, which impinges the rights of the petitioner under the colorable exercise of power, which is not conferred by the statute is the submission. The main prayer in this writ petition is to quash Ext.P5. The petitioner relied on the judgment of this Court in **Shriram Transport Finance Co. Ltd. v. Saneesha M.S.** [2024 (6) KHC 238].

3. Heard the learned counsel for the petitioner and the learned Government Pleader.

4. A Division Bench of this Court in **Shriram Transport Finance Co. Ltd.'s case** (supra) observed like this:

"9. On a reading of Section 17(2) of the

Arbitration and Conciliation Act, it is clear that the arbitral tribunal cannot directly enforce the order of attachment by intimating the same to the Sub Registrar office and the revenue officials. The arbitral tribunal, in this case usurped the power of the civil court by directly ordering enforcement of the order of attachment and by communicating the same to the registrar and the tribunal. We are of the view that such exercise in the guise of statutory provision is nothing but abdication of the authority conferred upon the arbitral tribunal. Therefore, the writ petition is maintainable to the extent to nullify an act done by encroaching in the public law in exercising power conferred on the arbitrator under the statutory provisions. To that extent, of course, the writ petition is maintainable.

XXX XXX XXX

XXX XXX XXX

11. On conclusion, we are of the view that the arbitral tribunal usurped the power of civil court by directly intimating the order of attachment to the Sub Registrar and the Village Officer. That direction will have to be nullified. Accordingly, we nullify the direction. The Sub Registrar or any revenue officials is not bound by any orders passed by the arbitral tribunal unless such an order is enforced through the civil court. We make it clear that the Sub Registrar or any revenue officials shall not act on the direct

> intimation of the arbitral tribunal regarding attachment unless and until it is enforced through a civil court. We direct the learned Government Pleader to communicate this order by directing the Principal Secretary, Revenue Department and Finance Department to intimate all registrar as well as the revenue authorities not to record attachment order which is directly communicated by the arbitral tribunal unless and until it is communicated through the civil court by an order."

5. In the light of the same, Ext.P5 will not stand. But the Government Pleader submitted that a new prohibitory order (Attachment in Execution) from the Munsiff Court, Irinjalakuda (order dated 21.05.2026 in EA 1/2026, EP 375/2026, Award 1225/2019) against the Judgment Debtor No.2, Smt.Rajitha is received, and the said order restricts the transfer of charging 2 cents of property out of the total extent of 3 Are 26Sq M in Survey No.293/1 of Kallettumkara Village. The same recorded. But the impugned order will not stand in the light of **Shriram Transport Finance Co.Ltd.'s case** (supra).

Therefore, this writ petition is disposed of with following

directions:

1. Ext.P5 is set aside.
2. The 4th respondent is directed to delete/modify the entries in the Encumbrance Certificate with respect to Ext.P5 order.
3. All other contentions of the petitioner are left open.

sd/-
**P.V.KUNHIKRISHNAN**
**JUDGE**

JV

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| Judgment reserved | NA |
| Date of Judgment | 07.10.2026 |
| Judgment dictated | 07.10.2026 |
| Draft Judgment placed | 08.10.2026 |
| Final Judgment uploaded | 09.10.2026 |

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APPENDIX OF WP(C) NO. 39051 OF 2025

PETITIONER EXHIBITS

| | |
|---|---|
| Exhibit P1 | TRUE COPY OF THE GEHAN DEED NO.G2260/2016 DATED 01.07.2016 EXECUTED BY THE 3RD RESPONDENT IN FAVOUR OF THE PETITIONER |
| Exhibit P2 | TRUE COPY OF THE AWARD PASSED IN ARC NO.1212/2018 DATED 31.05.2018 |
| Exhibit P3 | TRUE COPY OF THE ORDER PASSED BY THE JOINT REGISTRAR, THRISSUR DATED 20.02.2024 |
| Exhibit P4 | TRUE COPY OF THE ENCUMBRANCE CERTIFICATE DATED 21.10.2022 |
| Exhibit P5 | TRUE COPY OF THE INTERIM ORDER DATED 01.01.2020 PASSED BY THE 3RD RESPONDENT IN AOP NO.463/2019 ALONG WITH ITS TYPED COPY |
| Exhibit P6 | TRUE COPY OF THE ORDER PASSED BY THE 3RD RESPONDENT IN I.A.NO.3/2024 IN AOP NO.463/2019 DATED 12.07.2024 OF THE ARBITRAL TRIBUNAL, THRISSUR |

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