



2026:KER:38603

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

THURSDAY, THE 4TH DAY OF JUNE 2026 / 14TH JYAISHTA, 1948ICR (OP(C)) NO. 8 OF 2025PETITIONER/RESPONDENT/PLAINTIFF:

SAMBASIVAN

AGED 57

SON OF ANANDA PANICKER, SHILPA NIVAS, PARAMESWARAN,
NELLANAD, NELLANAD P.O., CHEMPOORU, NEDUMANGAD
THIRUVANANTHAPURAM (IN EXHIBIT-P3 MISTAKENLY SHOWN AS
HILPA NIVAS, PARAMESWARAM, NELLANAD IN NELLANAD
VILLAGE, NEDUMANGAD TALUK.)

BY ADV SRI.A.S.SHAMMY RAJ

RESPONDENT/PETITIONER/DEFENDANT:

SHYLAJA KUMARI

DAUGHTER OF MANIYAMMA, KALYAN BHAVAN, KOPPAM,
VITHURA P.O., THIRUVANANTHAPURAM - 695551. (IN EXHIBIT-
P3 MISTAKENLY SHOWN AS KALLYAN BHAVAN, VALIYAVENKODE,
THOTTUMUKKU, THOLICODE P.O., THOLICODE VILLAGE)

THIS INTRA COURT REFERENCE (OP (CIVIL)) HAVING COME UP FOR
HEARING ON 22.05.2026, ALONG WITH OP(C).844/2022, THE COURT ON
04.06.2026 DELIVERED THE FOLLOWING:



2026:KER:38603

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

THURSDAY, THE 4TH DAY OF JUNE 2026 / 14TH JYAISHTA, 1948OP(C) NO. 844 OF 2022

AGAINST THE ORDER DATED 7.4.2022 IN I.A.NO.1/2022 IN OS
NO.922 OF 2013 OF PRINCIPAL MUNSIF COURT,NEDUMANGAD

PETITIONER/RESPONDENT/PLAINTIFF::

SAMBASIVAN

AGED 57

SON OF ANANDA PANICKER, SHILPA NIVAS, PARAMESWARAN,
NELLANAD, NELLANAD P.O., CHEMPOORU, NEDUMANGAD
THIRUVANANTHAPURAM, (IN EXHIBIT-P3 MISTAKENLY SHOWN AS
HILPA NIVAS, PRAMESWARAM, NELLANAD IN NELLANAD VILLAGE,
NEDUMANGAD TALUK), PIN - 695606

BY ADV SRI.A.S.SHAMMY RAJ

RESPONDENT/PETITIONER/DEFENDANT:

SHYLAJA KUMARI

DAUGHTER OF MANIYAMMA, KALYAN BHAVAN, KOPPAM, VITHURA
P.O., THIRUVANANTHAPURAM (IN EXHIBIT-P3 MISTAKENLY
SHOWN AS KALLYAN BHAVAN, VALIYAVENKODE, THOTTUMUKKU,
THOLICODE P.O., THOLICODE VILLAGE), PIN - 695551

BY ADV SMT.MINIMOL R.

THIS OP (CIVIL) HAVING COME UP FOR HEARING ON 22.05.2026,
ALONG WITH ICR (OP(C))NO.8/2025, THE COURT ON 04.06.2026 DELIVERED
THE FOLLOWING:



2026:KER:38603

CR

SATHISH NINAN & P. KRISHNA KUMAR, JJ.

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ICR (OP(C))No.8 OF 2025 &**OP(C)No.844 OF 2022**

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Dated this the 4th day of June, 2026**JUDGMENT****P.Krishna Kumar, J.**

“On an application under Section 151 of the Code of Civil Procedure, can a document produced in Court by one party and not admitted in evidence, be returned to the opposite party on his application?” The matter has been referred to this Bench on account of doubts entertained regarding the correctness of the decision of a learned Single Judge of this Court in **Vinod Kumar S. v. ICIC Bank** [judgment dated 15/6/2022 in O.P. (C)No.1032/2021], wherein the question was answered in the affirmative.

2. A suit for declaration of title and possession over the plaint schedule property was dismissed by the trial court on 16.01.2017 as “not pressed”, at the instance of the plaintiff-petitioner herein, purportedly pursuant to a settlement arrived at between the parties. It is alleged in the plaint that, although the property was intended to be



2026:KER:38603

purchased in the name of the petitioner, the respondent, who had been entrusted by the petitioner with the task of making arrangements for the execution and registration of the sale deed in his absence, dishonestly caused the sale deed to be registered in her own name, despite the entire sale consideration having been paid by the petitioner. Subsequently, in the year 2022, the respondent-defendant filed an application under Section 151 of the Code of Civil Procedure, 1908 (for short, “the Code”), seeking return of the original sale deed standing in her name, though the same had been produced before the court by the petitioner. According to the respondent, notwithstanding the fact that the sale deed was registered in her name, the petitioner had fraudulently obtained its possession from the registering authority. The petitioner, on the other hand, contended that the sale deed could not be returned to the respondent, as the suit had been withdrawn as not pressed on the expectation that the respondent would act in terms of the settlement.

3. The trial court however held that, in the light of the principles laid down in *Muhammed Master v. Abu Haji* [1981 KLT 578] and *Philomina Joseph v. State of Kerala* [2009 (1) KHC



2026:KER:38603

575], dismissal of a suit as not pressed virtually amounts to a decision by consent, whereby the contentions raised in the pleadings stand decided against the plaintiff and in favour of the defendant, with the consequence that a subsequent claim would be barred under Order II Rule 2 of the Code. Accordingly, the court allowed the application, holding that mere production of a document by a party would not confer upon him any superior right over the true owner thereof. Aggrieved by the said order, the petitioner has invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

4. Noticing the specific statutory provisions contained in Rule 7 of Order XIII of the Code and Rule 132 of the Civil Rules of Practice, Kerala, the learned Single Judge doubted the correctness of the view taken by another learned Single Judge of this Court in the judgment dated 15.06.2022 in O.P. (C) No.1032 of 2021. In that case, the Court had allowed a similar application and set aside the order of the trial court dismissing a request for return of a title deed produced by the opposite party, which had been rejected on the ground that



2026:KER:38603

Rule 132 of the Civil Rules of Practice, Kerala, mandated a contrary course.

5. We have heard Sri. A.S. Shammy Raj, learned counsel appearing for the petitioner, and Smt. Minimol R., learned counsel appearing for the respondent.

6. Before examining whether an application of the present nature is maintainable under Section 151 of the Code, it is necessary to examine the provisions contained in the Code and the Civil Rules of Practice, Kerala, governing the return of documents.

7. Order XIII Rule 7 of the Code deals with the return of documents not admitted in evidence. It reads thus:

“7. Recording of admitted and return of rejected documents.—(1) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under Rule 5, shall form part of the record of the suit.

(2) Documents not admitted in evidence shall not form part of the record and shall be returned to the persons respectively producing them.”

8. Rule 132 of the Civil Rules of Practice, Kerala, prescribes the procedure for return of documents which have neither been admitted nor rejected, as they were not tendered in evidence. It reads thus:



2026:KER:38603

“Rule 132. Documents filed but neither admitted nor rejected to be returned.—

(1) Documents which have been filed in Court but which have not been tendered in evidence and which have therefore neither been admitted nor rejected shall be returned to the person who produced them as early as possible and, in any case, not later than the close of the trial.

(2) No application shall be necessary for their return, but an acknowledgement shall be obtained in the document list.”

9. The statutory provisions extracted above make it abundantly clear that a document of the nature referred to therein is liable to be returned to the person who produced it and that no application is required to be filed for such return. In the present case, the document sought to be returned is admittedly a title deed standing in the name of the respondent. However, it was produced before the court by the petitioner and was never tendered in evidence. As noticed earlier, the suit itself was disposed of in the year 2017 and the present dispute arose several years thereafter when the respondent sought return of the said title deed by filing an application before the trial court.

10. Once the suit is disposed of, the court generally becomes *functus officio*, and the scope of enquiry in a petition of this nature is necessarily limited. Nevertheless,



2026:KER:38603

the trial court proceeded on the premise that abandonment of the suit amounted to a decision against the petitioner and in favour of the respondent, placing reliance on *Muhammed Master* and *Philomina Joseph*. On that basis, the court directed return of the document to the respondent, holding that the petitioner could not claim a better right over it.

11. We are unable to find any such proposition flowing from either of the aforesaid decisions. In *Muhammed Master*, the issue arose in the context of an election petition where certain allegations relating to corrupt practices were not pressed by the petitioner. It was in that context that the Court observed that, by not pressing particular allegations or grounds raised in the pleadings, a litigant submits that the issues arising therefrom may be decided against him and in favour of his opponent. The Court further observed that this virtually amounts to a decision by consent, inasmuch as the party concerned concedes that the assertion or dispute raised by him does not merit consideration, either because he is unable or unwilling to substantiate the same.

12. In *Philomina Joseph*, the question that arose was whether a plaintiff whose suit had been dismissed as not



2026:KER:38603

pressed, without any adjudication on the merits, was entitled to refund of one-half of the court fee paid. It was in that context that the Court held that dismissal of a suit as not pressed carries with it an implied admission regarding the claim and that a fresh suit on the same cause of action would be barred by the provisions of Order II Rule 2 of the Code. (This decision is later overruled by a larger Bench, in the context of entitlement for refund of court fee when a suit is abandoned). None of the principles laid down in the aforesaid decisions can justify the invocation of the inherent powers of the Court in the present case in a manner contrary to the express statutory provisions noticed above.

13. Though Smt. Minimol R., learned counsel appearing for the respondent, relied upon *Murugan & Ors. v. Kesava Gounder (Dead) through LRs*. [O.P.(C) No.844 of 2022] and *Kalyanaswamy v. Bakthavatsalam* [(2021) 16 SCC 543] to elaborate the scope and effect of the bar under Order II Rule 2 of the Code, we do not find those decisions of assistance in adjudicating the issue arising in the present case, where the merits of the rival claims are of little relevance to the limited question under consideration.



2026:KER:38603

14. In ***Ram Chand and Sons Sugar Mills Private Ltd., Barabanki (U.P.) v. Kanhayalal Bhargava*** [AIR 1966 SC 1899], the Apex Court considered a similar issue. The question was whether, when the Code expressly confers power on a Civil Court to strike out the defence of a party under specified circumstances, the Court can invoke its inherent powers under Section 151 of the Code to strike out the defence in circumstances not contemplated by those provisions, namely, where a party adopts a recalcitrant attitude by defying the orders of the Court directing his presence for interrogation. The Supreme Court held that:

“The words of the section appear to be rather wide. But the decisions of this Court, by construction, limited the scope of the said section. In ***Padam Sen v. State of Uttar Pradesh*** [1961 (1) SCR 884 at p. 887], the question raised was whether a Munsiff had inherent powers under Section 151 of the Code to appoint a commissioner to seize account books. This Court held that he had no such power. Raghubar Dayal, J., speaking for the Court, observed:

“The inherent powers of the Court are in addition to the powers specifically conferred on the Court by the Code. They are complementary to those powers and, therefore, it must be held that the Court is free to exercise them for the purposes mentioned in S.151 of the Code when the exercise of these powers is not in any way in conflict with what has been expressly provided in the Code or against the intentions of the Legislature. It is also well recognised that the inherent power is not to be exercised in a manner which will



2026:KER:38603

be contrary to or different from the procedure expressly provided in the Code."

This Court again in *Manohar Lal Chopra v. Raja Seth Hiralal* [1962 Supp (1) SCR 450 at p. 461]: (AIR 1962 SC 527 at p. 533], considered the question whether a Court had inherent power under Section 151 of the Code to issue a temporary injunction restraining a party from proceeding with a suit in another State. In that context, Raghubar Dayal, J., after quoting the passage cited above from his earlier judgment, interpreted the said observations thus:

"These observations clearly mean that the inherent powers are not in any way controlled by the provisions of the Code as has been specifically stated in S.151 itself. But those powers are not to be exercised when their exercise may be in conflict with what had been expressly provided in the Code or against the intentions of the Legislature. This restriction, for practical purposes, on the exercise of these powers is not because these powers are controlled by the provisions of the Code but because it should be presumed that the procedure specifically provided by the Legislature for orders in certain circumstances is dictated by the interests of justice.

This Court again in *Arjun Singh v. Mohindra Kumar* [1964 (5) SCR 946 at p. 968] : [AIR 1964 SC 993 at p. 1003], considered the scope of Section 151 of the Code. One of the questions raised was whether an order made by a Court under a situation to which Order IX Rule 7 of the Code did not apply, could be treated as one made under Section 151 of the Code. Rajagopala Ayyangar, J., made the following observations:

"It is common ground that the inherent power of the Court cannot override the express provisions of the law. In other words, if there are specific provisions of the Code dealing with a particular topic and they expressly or by necessary implication exhaust the scope of the powers of the Court or the jurisdiction that may be exercised in relation to a matter the inherent power of the Court cannot be invoked in order to cut across the



2026:KER:38603

powers conferred by the Code. The prohibition contained in the Code need not be express but may be implied or be implicit from the very nature of the provisions that it makes for covering the contingencies to which it relates.”

Having regard to the said decisions, the scope of the inherent power of a Court under S.151 of the Code may be defined thus: The inherent power of a Court is in addition to and complementary to the powers expressly conferred under the Code. But that power will not be exercised if its exercise is inconsistent with, or comes into conflict with, any of the powers expressly or by necessary implication conferred by the other provisions of the Code. If there are express provisions exhaustively covering a particular topic, they give rise to a necessary implication that no power shall be exercised in respect of the said topic otherwise than in the manner prescribed by the said provisions. Whatever limitations are imposed by construction on the provisions of S.151 of the Code, they do not control the undoubted power of the Court conferred under S.151 of the Code to make a suitable order to prevent the abuse of the process of the Court.”

This decision has been followed in **GLAS Trust Company LLC v. BYJU Raveendran** [(2025) 3 SCC 625], wherein the larger Bench of the Supreme Court further held that;

“When a procedure has been prescribed for a particular purpose exhaustively, no power shall be exercised otherwise than in the manner prescribed by the said provisions. In such cases, the court must be circumspect in invoking its 'inherent powers' to deviate from the prescribed procedure. If such deviation is made, the court must justify why this was necessary to "prevent the abuse of the process of the Court".



2026:KER:38603

15. In view of the aforesaid authoritative pronouncements of the Apex Court, and on the facts of the present case, we are of the view that the trial court was not justified in passing the impugned order by resorting to Section 151 of the Code, in the teeth of the specific provisions governing the return of documents. The order passed by this Court in O.P.(C) No.1032 of 2021 was rendered in the peculiar facts of that case, including the absence of any objection from the opposite party.

16. At the same time, we do not propose to lay down as an absolute proposition that the inherent jurisdiction of the court can never be invoked in relation to the custody or return of documents. Situations may arise where, owing to exceptional or unforeseen circumstances, a different course might be required to avert manifest injustice or abuse of the process of the Court. As held by the Apex Court, the limitations imposed by construction on the provisions of S.151 of the Code will not control the inherent power of the Civil Court to make a suitable order to prevent the abuse of the process of the Court. For making such deviation, the court



2026:KER:38603

must justify why it was necessary to "prevent the abuse of the process of the Court".

17. In view of the above discussion, the impugned order is liable to be set aside.

In the result, the original petition is allowed by setting aside the order impugned. The application for return of the document stands dismissed. However, we make it clear that the above order will not affect the rights of the respondent to work out her remedies available under law.

Sd/-
SATHISH NINAN

JUDGE

Sd/-
P. KRISHNA KUMAR
JUDGE

SV



2026:KER:38603

APPENDIX OF OP(C) NO. 844 OF 2022**PETITIONER EXHIBITS**

Exhibit P1 TRUE COPY OF THE AGREEMENT FOR SALE DATED 2.2.2009 ENTERED INTO BETWEEN PETITIONER AND SMT. BHARATHI

Exhibit P2 TRUE COPY OF THE SALE DEED DATED 17.3.2010 EXECUTED IN THE NAME OF RESPONDENT.

Exhibit P3 TRUE COPY OF THE PLAINT IN O.S. NO.922/2013 ON THE FILE OF MUNSIF COURT, NEDUMANGAD DATED 15.11.2013

Exhibit P4 TRUE COPY OF THE MEMO DATED 13.7.2016, IN O.S. NO.922/2013 ON THE FILE OF MUNSIF COURT, NEDUMANGAD

Exhibit P5 TRUE COPY OF I.A. NO.1/2022 IN O.S. NO.922/2013 FILED BEFORE MUNSIF COURT, NEDUMANGAD DATED 27.1.2022

Exhibit P6 TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER HEREIN AGAINST I.A. NO.1/2022 IN O.S. NO.922/2013 DATED 1.4.2022

Exhibit P7 TRUE COPY OF THE ORDER DATED 7.4.2022 IN I.A. NO.1/2022 IN O.S. NO.922/2013 ON THE FILE OF PRINCIPAL MUNSIF COURT, NEDUMANGAD

Exhibit P8 TRUE COPY OF I.A. NO.5/2022 IN O.S. NO.922/2013 ON THE FILE OF MUNSIF COURT, NEDUMANGAD DATED 18.5.2022

RESPONDENT EXHIBITS

EXHIBIT R1(b) True copy of the petition in I.A No.9/2022 in O.S.No.922/2013 of Principal Munsiff Court, Nedumangad

EXHIBIT R1(d) True copy of Common Order dated 3/6/2022 in I.A.No.5/2022 and IA.9/2022 in O.S.No.922/2013 of Principal Munsiff Court, Nedumangad

EXHIBIR R1(e) True copy of the said I.A.No.6/2022 filed by the petitioner in O.S.922/2013 of Principal Munsiff Court, Nedumangad

EXHIBIT R1(f) True copy of objection filed by the respondent in I.A.No.6/2022 in O.S.No.922/2013 of Principal Munsiff Court, Nedumangad dated 19/5/22

EXHIBIT R1(g) True copy of the additional objection filed by the respondent in I.A.No.6/2022 in O.S.No.922/2013 of Principal Munsiff Court, Nedumangad dated 24/5/22



2026:KER:38603

- EXHIBIT R1(h) True copy of the order dated 06/06/2022 in I.A No.6/2022 in O.S.No.922/2013 of Principal Munsiff Court, Nedumangad
- EXHIBIT R1(j) True copy of the Ownership Certificates issued by the Grama Panchayath, Vithura in respect of the house and shop rooms dated 10/05/2013
- EXHIBIT R1(k) True copy of the Ownership Certificates issued by the Grama Panchayath, Vithura in respect of the house and shop rooms dated 10/05/2013
- EXHIBIT R1(O) True copy of lease agreements executed by the respondent dated 4/08/2014
- EXHIBIT R1(n) True copy of the land tax receipt dated 16/03/2021 issued by the Village Officer, Tholicode
- EXHIBIT R1(m) True copy of the Possession Certificate issued by the Village Officer, Tholicode dated 04/11/2015
- EXHIBIT R1(p) true copy of lease agreements executed by the respondent dated 05/01/2017
- EXHIBIT R1(c) True copy of the objection filed by the petitioner in I.A.No.9/2022 in O.S.No.922/2013 of Principal Munsiff Court, Nedumangad
- EXHIBIT R1(a) True copy of the objection filed by the respondent in I.A No.5/2022 in O.S.No.922/2013 of Principal Munsiff Court, Nedumangad
- EXHIBIT R1(i) True copy of the Ownership Certificates issued by the Grama Panchayath, Vithura in respect of the house and shop rooms dated 10/05/2013
- EXHIBIT R1(l) True copy of the Ownership Certificates issued by the Grama Panchayath, Vithura in respect of the house and shop rooms dated 10/05/2013