IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

WEDNESDAY, THE 29TH DAY OF OCTOBER 2025 / 7TH KARTHIKA, 1947

OP(C) NO. 345 OF 2016

AGAINST THE PRELIMINARY ORDER DATED 26/11/2025 IN ADDITIONAL ISSUE NO.8 IN OS NO.99 OF 2012 OF MUNSIFF COURT, KOYILANDY

PETITIONER/PLAINTIFF:

MADATHIL PAKRUTI
AGED 67 YEARS
S/O.IMBICHAMMU HAJI, AVITANALLUR AMSOM,
DESOM, KOYILANDY TALUK, KOZHIKODE DISTRICT,
KERALA STATE.

BY ADVS.
SRI.K.M.FIROZ
SRI.S.KANNAN
SMT.M.SHAJNA

RESPONDENTS/DEFENDANTS:

1 **T.P.KUNJANANDAN**
S/O.KUNJIRAMAN NAIR, AGED 57 YEARS,
MEJANYAM AMSOM, DESOM,
POST MENJANYAM, VIA PERAMBRA,
KOYILANDY TALUK, KOZHIKODE DISTRICT,
KERALA STATE - 673 308.

2 **PUTHUSSERI SADANANDAN**
S/O.KUNJIKANARAN, AGED 58 YEARS,
ULLIYERI AMSOM,
MUNDOTH DESOM, POST ULLIYERI,
KOYILANDY TALUK, KOZHIKODE DISTRICT,
KERALA STATE - 673 308.

BY ADVS.
SHRI.RAJEESH K.V.
SRI.L.S.BHAGAVAL DAS

THIS OP (CIVIL) HAVING COME UP FOR HEARING ON 17.10.2025, THE COURT ON 29.10.2025 DELIVERED THE FOLLOWING:

P. KRISHNA KUMAR, J.

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O.P.(C)No.345 OF 2016

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Dated this the 29th day of October, 2025

JUDGMENT

The petitioner is aggrieved by Ext.P5 order dated 26.11.2015 in O.S. No.99/2012 on the file of the Munsiff Court, Koyilandy. The petitioner is the plaintiff in the said suit. By the impugned order, the learned Munsiff directed the petitioner to amend the valuation portion of the plaint and to remit the requisite court fee.

2. The material facts necessary for the disposal of this case are as follows: The suit was instituted for a decree of permanent prohibitory injunction. Based on the contentions raised in the written statement filed by the defendants/respondents, the petitioner amended the plaint to incorporate a prayer for declaration that Document Nos. 805/2008 and 1938/2010 of SRO, Naduvannur are null and void. At the instance of the respondents, the trial court thereafter

framed an additional issue regarding the sufficiency of the court fee paid. On consideration of the issue, the trial court held that the petitioner had undervalued the suit, since the valuation was made on the basis of the consideration shown in the first document (₹1,50,000/- under Document No.805/2008) alone, while the market value of the disputed property was much higher as reflected in the subsequent document (₹6,07,300/- under Document No.1938/2010). The petitioner challenges the correctness of the said direction, contending that the valuation of the plaint cannot be on the basis of the subsequent document relating to the very same property.

3. Heard Sri. Firoz K. M., learned counsel for the petitioner. The respondents did not enter appearance.

4. On a perusal of the records and taking note of the pleadings in the plaint, I find force in the contention advanced by the learned counsel for the petitioner. The proviso to sub-section (1) of Section 6 of the Kerala Court Fees and Suits Valuation Act, 1959 makes it explicit that where a relief sought is merely ancillary to the main relief, the court fee is chargeable only on the value of the main

relief. It reads as follows:

> "6.Multifarious suits.-(1) In any suit in which separate and distinct reliefs are sought based on the same cause of action, the plaint shall be chargeable with a fee on the aggregate value of the reliefs:
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> Provided that, if a relief is sought only as ancillary to the main relief, the plaint shall be chargeable only on the value of the main relief."

This Court, in ***State Bank of India v.Niyas*** (2021(2)KLT 172), held that the true test to distinguish between an ancillary relief and a main relief for the purposes of Section 6 is whether one can be sustained independently of the other.

5. The factual matrix of the present case mirrors the very same situation. The specific case of the petitioner is that Document No.805/2008 was a sham transaction, unsupported by consideration, and was executed only to secure the terms of a mediation agreement. The petitioner has also pleaded that Document No.1938/2010 was executed subsequently and is wholly dependent upon the earlier invalid transaction. It follows that the challenge against the subsequent document is only

ancillary or consequential to the challenge against the first one. In that circumstance, the adjudication to be made by the court primarily rests upon the validity of the first document. The fate of the subsequent document entirely depends on the outcome of that determination. Once the earlier document falls, the later one cannot survive. Having regard to the scheme of the Act and the true scope of the proviso to Section 6(1), the petitioner cannot be compelled to pay court fee on the valuation shown in the subsequent document.

In the result, the original petition is allowed and Ext.P5 order is set aside. Considering the extraordinary delay occasioned in this matter, the Munsiff is directed to dispose of the case at the earliest.

Sd/-

P. KRISHNA KUMAR

JUDGE

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APPENDIX OF OP(C) 345/2016

PETITIONER'S EXHIBITS

EXHIBIT P1. COPY OF THE PLAINT IN OS 99/12 ON THE FILES OF MUNSIFFS COURT, KOYILANDY.

EXHIBIT P2. COPY OF THE WRITTEN STATEMENT SUBMITTED BY THE DEFENDANTS IN OS 99/12 ON THE FILES OF MUNSIFF COURT, KOYILANDY.

EXHIBIT P3. COPY OF THE REJOINDER FILED BY THE PETITIONER IN OS 99/12 ON THE FILES OF MUNSIFF COURT, KOYILANDY.

EXHIBIT P4. COPY OF THE IA 805/15 PREFERRED Y THE IST RESPONDENT IN OS 99/12 ON THE FILES OF MUNSIFF COURT, KOYILANDY.

EXHIBIT P5. COPY OF THE PRELIMINARY ORDER DATED 26.11.15 PASSED BY THE MUNSIFF COURT, KOYILANDY IN OS 99/12.