



2026:KER:62595

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT**

THE HONOURABLE MR. JUSTICE EASWARAN S.

MONDAY, THE 10TH DAY OF AUGUST 2026 / 19TH SRAVANA, 1948

RSA NO. 194 OF 2026

**AGAINST THE JUDGMENT AND DECREE DATED 18.09.2025 IN AS
NO.24 OF 2024 OF SUB COURT, CHAVAKKAD ARISING OUT OF THE
JUDGMENT AND DECREE DATED 31.01.2024 IN OS NO.968 OF 2018
OF MUNSIFF COURT, CHAVAKKAD**

APPELLANT/APPELLANT/PLAINTIFF:

**BRD FINANCE LTD.
KUNNAMKULAM VILLAGE AND DESOM, KUNNAMKULAM TALUK,
REPRESENTED BY LITIGATION CLERK, MANI S., AGED 63
YEARS, KILLANNUR VILLAGE, MULANKUNNATHUKAVU
DESOM, THRISSUR TALUK, PIN - 680581
BY ADVS.
SHRI.G.KRISHNAKUMAR
SMT.NINA P. AUGUSTINE
SMT.ATHULIYA P.
SHRI.SOORAJ SUNIL P.**

RESPONDENTS/RESPONDENTS/DEFENDANTS:

- 1 SANTHOSH P.
 AGED 43 YEARS
 S/O. AYYAPPAN, PALAKKAL HOUSE, ALAMKODE VILLAGE,
 KOKKUR DESOM, PONNANI TALUK, MALAPPURAM DISTRICT,
 PIN - 676591**
- 2 SUJISHA M.K.
 AGED 40 YEARS
 W/O. SANTHOSH, PALAKKAL HOUSE, ALAMKODE VILLAGE,
 KOKKUR DESOM, PONNANI TALUK, MALAPPURAM DISTRICT,,
 PIN - 676591**

**THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION ON
10.08.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



EASWARAN S., J.

R.S.A.No.194 of 2026

Dated this the 10th day of August, 2026

JUDGMENT

The appeal is directed against the judgment and decree in O.S.No.968/2018 of the Munsiff Court, Chavakkad, affirmed in A.S. No.24/2024 by the Sub Court, Chavakkad.

2. The plaintiff, which is a kuri company, had instituted O.S.No.968/2018 before the Munsiff Court, Chavakkad, seeking for recovery of a sum of Rs.3,47,587/- on the basis of a pro-note executed by the defendants. The suit was instituted initially before the Munsiff Court, Chavakkad. During the pendency of the suit, by G.O.(Ms)No.51/2020/Home. dated 24.02.2020, the Government of Kerala had issued a notification in exercise of power conferred under sub-sections (1) and (2) of Section 3 of the Commercial Courts Act, 2015 (Central Act 4 of 2016), designating the sub court as commercial court for the purpose of recovery of amount above Rs.3 lakhs for the whole of the State.

3. It is pointed out that, in view of Section 15 of the Commercial Courts Act, 2015, the suit ought to have been transferred automatically by the Munsiff Court before the Sub



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Court and without looking into the same, the Munsiff Court has proceeded to consider the suit on merits and dismissed the same. This aspect has not been noticed by the appellant while they preferred an appeal before the Sub Court, Chavakkad as A.S.No.24/2024 and thus, it is the case of the appellant that, both the judgments and decrees passed by the Munsiff Court, Chavakkad as well as by the Sub Court, Chavakkad is without jurisdiction.

4. This Court, on 18.05.2026, admitted the appeal and notice was issued to the respondents on the following substantial question of law, but none appears for them:

“Whether after coming into force of the Commercial Courts Act, 2015, can a civil court try and adjudicate a case of commercial dispute of a specified value which is to be tried only by a commercial court ?”

5. Heard, Sri. G.Krishnakumar - learned counsel appearing for the appellant.

6. On a consideration of the submissions raised across the Bar by the learned counsel for the appellant, this Court finds considerable force in the same. When notification is issued by the State of Kerala designating sub Courts as commercial courts for recovery of amount above Rs.3 lakhs, necessarily the Munsiff Court, Chavakkad ought to have transferred the suit to the



Principal Sub Court, Thrissur. Without transferring the same, the act of the Munsiff Court in proceeding to consider the suit on merits is clearly unsustainable and without jurisdiction. The said illegality was perpetuated at the appellate stage as well and the Sub Court, Chavakkad failed to notice the fact that an appeal against an order rendered without jurisdiction is not maintainable before it.

7. In such circumstances, without entering into the merits of the findings rendered by the courts below, interest of justice would suffice if the judgment and decree in O.S.No.968/2018 on the files of Munsiff Court, Chavakkad, as affirmed in A.S.No.24/2024 by the Sub Court, Chavakkad is set aside and all findings rendered by the respective courts be vacated.

8. Accordingly, the substantial question of law framed as above are answered in favour of the appellant and the judgment and decree dated 31.01.2024 dismissing O.S.No.968/2018 by the Munsiff Court, Chavakkad, as affirmed in AS No.24/2024 by the Sub Court, Chavakkad, stands set aside. O.S.No.968/2018 pending before the Munsiff Court, Chavakkad, will stand transferred to the Principal Sub Court, Thrissur. The Principal District Court, Thrissur, is directed to pass consequential orders on the administrative side transferring the case to the Principal Sub

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Court, Thrissur. Once the suit is transferred, the Principal Sub Court, Thrissur, shall issue notice to the plaintiff as well as the defendants and proceed with the merits of the case. The appellant will be entitled to refund of court fee paid before this Court as well as before the first appellate court.

With the above observations, the appeal is disposed of.

Sd/-

EASWARAN S, JUDGE

ACR