



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 8TH DAY OF APRIL 2026 / 18TH CHAITHRA, 1948

WP(C) NO. 28533 OF 2025

PETITIONERS:

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BY ADVS.
SHRI.ROY PALLIKOODAM
SHRI.R.PRASANTH KUMAR
SHRI.R.KALESH
SRI.K.K.MURUKESAN
SHRI.P.JAYAPRAKASH (ALAPPUZHA)
SRI.JAYAPRAKASH NARAYANAN
SHRI.MOOSAKUTTY V.S.
SHRI.RAJAN K.

RESPONDENTS:

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3 BAR COUNCIL OF KERALA
 REPRESENTED BY ITS SECRETARY,
 BAR COUNCIL BUILDING,
 ERNAKULAM, PIN - 682031

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6 THE ADVOCATES GRIEVANCE REDRESSAL COMMITTEE
 DISTRICT COURT CENTRE, VANCHIYOOR,
 THIRUVANANTHAPURAM,
 REPRESENTED BY DISTRICT JUDGE
 THIRUVANANTHAPURAM, PIN - 695035

7 THE BAR ASSOCIATION
 THIRUVANANTHAPURAM,
 REPRESENTED BY ITS PRESIDENT, VANCHIYOOR,
 THIRUVANANTHAPURAM, PIN - 695035

BY ADVS.
SMT.SHYNI DAS J.S.
SMT.M.U.VIJAYALAKSHMI
SHRI.APPU AJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
31.03.2026, THE COURT ON 08.04.2026 DELIVERED THE FOLLOWING:



"C.R."

BECHU KURIAN THOMAS, J.**-----
W.P.(C) No.28533 of 2025
-----**Dated this the 8th day of April, 2026**JUDGMENT**

A pernicious conduct of a member of the legal profession, attempting to stall a decree holder from enjoying the fruits of a decree, until his claim for legal fees is settled, has been, unabashedly brought up for determination before this Court under Article 226 of the Constitution of India. The circumstances pleaded in the writ petition, reveal disconcerting instances for the whole legal fraternity, as an Advocate who had earlier appeared for a decree holder, is attempting to halt the progress of the execution petition, alleging non payment of fees.

2. Shorn of all the unnecessary intricate details pleaded, regarding how the petitioner had assisted the claimants in a land acquisition reference to obtain an award in their favour, the brief facts are narrated below: Petitioners are practicing Advocates. They alleged that the first petitioner had been conducting the case of the claimants in LAR No.302/1988 of the Sub Court, Thiruvananthapuram from the year 2004 onwards, by giving inputs and advice to the counsel appearing for the



claimants in the Sub Court. It is pleaded that, after the award was passed in the aforementioned reference case, an execution petition was filed through the petitioner's colleague at Thiruvananthapuram. Later a No Objection Certificate was obtained from that Advocate in January 2017, and the case was entrusted with the first petitioner. Petitioners allege that, after the State Government deposited the first instalment of the award amount due to the fourth and fifth respondents (hereafter for brevity, referred to as 'the claimants'), differences of opinion regarding Advocate fees arose between them. Later, after deliberations, when the fee was demanded and cheque applications prepared by the petitioners were collected by the claimants assuring to return them back. Subsequently, those applications were submitted to court through new Advocates (respondents 1 and 2), who filed fresh vakalath on 10.10.2024 before the Executing Court, without any No Objection Certificate.

3. Petitioners allege that the new Advocates have played fraud by filing vakalath and hence complaints were filed by the petitioners before the Hon'ble the Chief Justice of Kerala, the Bar Council as well as the District Court, Thiruvananthapuram. It is also alleged that the petitioners even filed EA No.829/2024 in E.P No.140/2013 seeking to dismiss the cheque application and also to stay the matter until the complaints filed by them are decided. Since the High Court refused to intervene on the



administrative side, petitioners filed a complaint before the Bar Council.

4. In the meantime, according to the petitioners, on realising that a portion of the amount due to the claimants have been disbursed to them, the first petitioner represented before the District Judge and to the Advocates Grievance Redressal Committee through the Bar Association, all of whom referred the the matter to the seventh respondent for consideration. While the matter is under consideration of the seventh respondent, the executing court posted the case for steps as a last chance. It was in such circumstances that the petitioners have approached this Court seeking to declare that the decisions permitting the claimants to appoint another Advocate in place of petitioners in EP No.140/2013 in LAR No.302/1988 to be invalid and to maintain status quo of the execution proceedings until a decision is taken by the Bar Council on the petitioners' complaint against the first and second respondents. Petitioners have also sought for a declaration that they are entitled to get their professional fee from the claimants adjudicated by the Advocates Grievance Redressal Committee as well as the Bar Association and till such a decision is taken, to keep all execution proceedings in abeyance. Petitioners have also sought for a direction to the claimants to return the money illegally encashed by them.

5. The first and second respondents have filed a counter affidavit, stating that they filed the vakalath before the executing court for the



claimants after they approached them, stating that they had lost their confidence in the petitioners for the conduct of the execution petition. It is also pleaded that those respondents had never induced or coerced the claimants to change the counsel and had not indulged in any nefarious activities. It was also pleaded that the claimants have an unfettered right to revoke a vakalath and engage a new counsel and also that any claim for unpaid professional charges cannot be agitated under Article 226 of the Constitution of India. First and second respondents further pleaded that their vakalath was accepted by the executing court and the amounts were even directed to be released.

6. A counter affidavit has been filed by the fourth and fifth respondent - the claimants, asserting that though the first petitioner had held the vakalath in the execution petition, the said respondents had paid the fee demanded by him and that it was only after the first petitioner started illegally demanding a further amount of one crore rupees, that they changed the vakalath. It is also stated that the first petitioner was already paid a sum exceeding Rs.25,00,000/- through bank transactions and further amounts in hand as well, as is evident from Ext.R4(a) statement of account. Claimants further alleged that the first petitioner continuously harassed them threatening that unless the amount was paid, he would not take any further steps in the case and it is only when they were left with no other option, that they approached



another counsel. It is further stated that the first petitioner even refused to relinquish his engagement unless he was paid a crore of rupees and thereafter an affidavit was filed by the said respondents before the Sub Court explaining the true facts, which was duly accepted by the court. The claimants further pleaded that they came to understand that the first petitioner was not personally conducting the case but had engaged another lawyer without their consent or knowledge, which itself was highly improper and unethical. It is also stated there was never any snatching of the case but the said respondents were compelled to engage new lawyers because of the harassment and illegal demands of the first petitioner.

7. A reply affidavit has been filed by the first petitioner reiterating their contentions in the writ petition. It is also alleged that compelling the petitioners to approach the civil court for recovery of professional fees due to them is unethical, illegal and improper and an arrogance amounting to nothing but looting the petitioners hard earned efforts and services for over two decades.

8. I have heard Sri. R. Prasanth Kumar, the learned counsel for the petitioners, Smt. Shiny Das, the learned counsel for respondents 1 and 2, Smt. M.U.Vijayalakshmi, the learned counsel for the third respondent as well as Sri. Appu Ajith, the learned counsel for respondents 4 and 5 and have considered the rival contentions.



9. The pleadings reveal that the first petitioner was the erstwhile advocate for the claimants who are the decree holders in a land acquisition reference, which is now pending in execution proceedings. The first petitioner was apparently managing the case on behalf of the claimants till 2017 through another Advocate at Thiruvananthapuram, and from that year onwards he held a vakalath. Later, first and second respondents were requested by the claimants to represent them as their Advocate in the execution proceedings. Since the first petitioner apparently refused to issue a no objection certificate, an affidavit was filed before the executing court which accepted the fresh vakalath and permitted the first and second petitioners to represent on behalf of the claimants. The cheque application submitted on behalf of the claimants was also allowed, much to the chagrin of the first petitioner. Complaints were raised by the first petitioner before different authorities, including the Hon'ble the Chief Justice of the State and the executing court against the first and second respondents, and requested for staying the execution proceedings until his grievance is redressed.

10. The above narration reveals an unpleasant situation of an Advocate attempting to stall the execution proceedings pursuant to an award in a land acquisition reference alleging non-payment of his fees. Though the claimants deny the allegation and contend that large amounts have already been paid as fees, the said dispute is not



justiciable by this Court. The dispute relating to non-payment of fees to an Advocate by a private litigant, has to be agitated before a competent civil court in accordance with law. Such a claim cannot be agitated under Article 226 of the Constitution of India.

11. There is a disconcerting situation that has been brought out in this case, which needs mention. The legal profession is undoubtedly a noble profession. Its nobility is however determined by the persons adorning the black robes. If the members of the legal profession conduct themselves in a manner prejudicial to the interests of their clients, the facade of nobility will be torn. The profession can ill afford that.

12. Recently, this Court had observed in **Mathew B. Kurian v. National Council for Teacher Education** [(2025) 3 KLT 479] that an Advocate has to be compensated for the time, skill and effort, and when a fee is stipulated and accepted by both parties, the client is legally obligated to pay. It was also held that fair payment to an Advocate is essential to ensure the independence, dignity and non - subordination of the legal profession and is also quintessential to maintain the ethical integrity and arbitrary denial of fees leads to exploitation of legal professionalism, which hinders access to justice. It was further observed that if a client agrees to pay and then refuses after receiving services, such conduct is unjustifiable and condemnable. However, all those observations were made in the context of the State or its



instrumentalities denying payment of fees that too when there was no serious dispute regarding the claim. Those observations cannot be extended to instances of fee, allegedly due from private litigants.

13. As per the Bar Council of India Rules, enacted under the Advocates Act 1961, in the part dealing with Standards of Professional Conduct and Etiquette, Chapter II, Section II - Duty to the Client, in Rule 20 it is stipulated that "An Advocate shall not stipulate for a fee contingent on the results of litigation or agree to share the proceeds thereof". Further, if any fee remains unpaid at the time of terminating the engagement, Rule 28 and 29 provide as follows:

"28. After the termination of the proceeding, the Advocate shall be at liberty to appropriate towards the settled fee due to him, any sum remaining unexpended out of the amount paid or sent to him for expenses, or any amount that has come into his hands in that proceeding.

29. Where the fee has been left unsettled, the Advocate shall be entitled to deduct, out of any moneys of the client remaining in his hands, at the termination of the proceeding for which he had been engaged, the fee payable under the rules of the Court, in force for the time being, or by then settled and the balance, if any, shall be refunded to the client."

14. Thus the Rules are specific that an Advocate can only adjust or deduct, after termination of his engagement, the fee from the amount remaining unexpended out of the amount paid towards expenses or



remaining in his hands. There cannot, under any circumstances whatsoever, be a situation where the litigant is pushed to a corner or blackmailed into paying the fee demanded by the Advocate. Even worse is the situation when the Advocate, after termination of his engagement, attempts to stall the very proceeding in which he was appearing on behalf of the litigant. Such conduct is an affront to the very nobility of the profession and has to be dealt with a stern hand.

15. Rule 15 of Section II in the Rules dealing with Standards of Professional Conduct and Etiquette stipulates that an Advocate has the duty to fearlessly uphold the interests of his client by all fair and honourable means, without regard to any unpleasant consequence to himself or any other. Such duty though terminated by the relinquishment of the engagement or its termination, the Advocate cannot be permitted to turn around and act against the interests of an erstwhile client after termination.

16. Be that as it may, even if it is assumed, without upholding it, that petitioners are correct about the unpaid fee, still, an Advocate has no right to halt the legal proceedings until his claim for fee is settled. The Advocate cannot demand that he be permanently engaged in a litigation by the litigant till its culmination. An Advocate is only a person representing his client. He does not step into the shoes of the client. If in case any fee is due to an Advocate, and if the client refuses to pay, his



remedy is to initiate appropriate legal remedies. An Advocate has no lien over the case bundles or the proceedings. Since an Advocate cannot have any right to be permanently engaged by a client, he cannot, after his engagement is terminated, dictate, control or navigate the proceedings in the case.

17. The first petitioner's allegation that the vakalath was snatched away from him without his consent, has no bearing as the executing court i.e., Sub Court, Thiruvananthapuram had accepted the fresh vakalath filed by the new Advocates. Moreover, if an Advocate refuses to relinquish his vakalath, the litigant must be given the freedom to engage another Advocate with the permission of the Court. Rule 20 of the Rules of the High Court of Kerala, 1971 is an enabling provision in that regard as far as the High Court is concerned. As far as civil courts are concerned, the Civil Rules of Practice in Kerala provide in Rule 28 as follows:

Change of Vakkalath.-A pleader proposing to enter appearance in a suit or other proceeding for a party for whom there is already a pleader on record, may not do so unless he produces the written consent of such pleader, or where such pleader refuses his consent, he obtains the special permission of the Court."

In view of the above provision, it is evident that in cases where an Advocate refuses consent for change of vakalath, the party is entitled to obtain special permission of the court to engage another Advocate.



18. In the decision in **R.D.Saxena v. Balram Prasad Sharma** [(2000) 7 SCC 264] Supreme Court had, while dealing with the case of an Advocate refusing to return the case files on his termination of engagement, made certain significant observations. Since those observations have to be regularly borne in mind by the member of the legal profession and some of those are relevant to the present issue, they are extracted as follows:

"14. There is yet another reason which dissuades us from giving approval to any such lien. We are sure that nobody would dispute the proposition that the cause in a Court/Tribunal is far more important for all concerned than the right of the legal practitioner for his remuneration in respect of the services rendered for espousing the cause on behalf of the litigant. If a need arises for the litigant to change his counsel pendente lite, that which is more important should have its even course flow unimpeded. Retention of records for the unpaid remuneration of the advocate would impede such course and the cause pending judicial disposal would be badly impaired. If a medical practitioner is allowed a legal right to withhold the papers relating to the treatment of his patient which he thus far administered to him for securing the unpaid bill, that would lead to dangerous consequences for the uncured patient who is wanting to change his doctor. Perhaps the said illustration may be an over statement as a necessary corollary for approving the lien claimed by the legal practitioner. Yet the illustration is not too far fetched. No professional can be given the right to withhold the returnable records relating to the work done by him with his client's matter on the strength of any claim for unpaid remuneration. The alternative is that the professional concerned can resort to other legal remedies for such unpaid remuneration.

15. A litigant must have the freedom to change his advocate when he



feels that the advocate engaged by him is not capable of espousing his cause efficiently or that his conduct is prejudicial to the interest involved in the lis, or for any other reason. For whatever reason, if a client does not want to continue the engagement of a particular advocate it would be a professional requirement consistent with the dignity of the profession that he should return the brief to the client. It is time to hold that such obligation is not only a legal duty but a moral imperative.

16. xxx xxx xxx

17. *If a party terminates the engagement of an advocate before the culmination of the proceedings that party must have the entire file with him to engage another advocate. But if the advocate who is changed midway adopts the stand that he would not return the file until the fees claimed by him are paid, the situation perhaps may turn to dangerous proportions. There may be cases when a party has no resources to pay the huge amount claimed by the advocate as his remuneration. A party in a litigation may have a version that he has already paid the legitimate fee to the advocate. At any rate if the litigation is pending, the party has the right to get the papers from the advocate whom he has changed so that the new counsel can be briefed by him effectively. In either case it is impermissible for the erstwhile counsel to retain the case bundle on the premise that fees were yet to be paid.*

18. *Even if there is no lien on the litigation papers of his client and advocate is not without remedies to realise the fee which he is legitimately entitled to. But if he has a duty to return the files to his client on being discharged, the litigant too has a right to have the files returned to him, more so when the remaining part of the lis has to be fought in the Court. This right of the litigant is to be read as the corresponding counterpart of the professional duty of the advocate."*

19. An Advocate is an officer of the court. He is expected, at all times, to comport himself in a manner befitting his status not only as an



officer but also as a civil person. In this context, it needs to be reiterated that the relationship between an Advocate and a client is a fiduciary relationship with utmost trust and faith, enveloping the whole relationship. No Advocate is entitled to exploit the litigant especially with regard to the fee. In case such exploitation is carried out, the litigant is entitled to initiate proceedings before the Bar Council of India for professional misconduct.

20. In **O.P.Sharma and Others v. High Court of Punjab & Haryana** [(2011) 6 SCC 86] the Supreme Court made the following observations regarding the ethics for advocates which being relevant is extracted below:

"38. An advocate's duty is as important as that of a Judge. Advocates have a large responsibility towards the society. A client's relationship with his/her advocate is underlined by utmost trust. An advocate is expected to act with utmost sincerity and respect. In all professional functions, an advocate should be diligent and his conduct should also be diligent and should conform to the requirements of the law by which an advocate plays a vital role in the preservation of society and justice system. An advocate is under an obligation to uphold the rule of law and ensure that the public justice system is enabled to function at its full potential. Any violation of the principles of professional ethics by an advocate is unfortunate and unacceptable. Ignoring even a minor violation / misconduct militates against the fundamental foundation of the public justice system. An advocate should be dignified in his dealings to the Court, to his fellow lawyers and to the litigants. He should have integrity in abundance and should never do anything that erodes his credibility.

39. An advocate has a duty to enlighten and encourage the juniors in



the profession. An ideal advocate should believe that the legal profession has an element of service also and associates with legal service activities. Most importantly, he should faithfully abide by the standards of professional conduct and etiquette prescribed by the Bar Council of India in Chapter II, Part VI of the Bar Council of India Rules."

21. It is quite disturbing to note that two members of the noble profession of law had filed a writ petition of this nature and successfully stalled the disbursement of the decretal amount to the rightful claimants, for almost ten months.

22. Taking note of the nature of pleadings in the case, this Court is of the view that there is no merit in the writ petition and it is liable to be dismissed with costs. Accordingly this writ petition is dismissed with a cost of Rs.50,000/- (Rupees Fifty thousand only). Ordered accordingly. The petitioners shall pay the costs to the Kerala State Legal Services Authority at Ernakulam, within a period of six weeks from today, failing which steps shall be taken to recover the same.

The writ petition is accordingly dismissed.

**Sd/-
BECHU KURIAN THOMAS
JUDGE**

vps