IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. SOUMEN SEN

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

MONDAY, THE 23RD DAY OF FEBRUARY 2026 / 4TH PHALGUNA, 1947

WA NO. 137 OF 2026

AGAINST THE ORDER DATED IN WP(C) NO.30301 OF 2025 OF HIGH COURT OF KERALA

APPELLANTS/PETITIONERS:

1 P.A.JIHAS, AGED 55 YEARS
S/O LATE P. K. ABDUL RAHIMAN, MANAGING DIRECTOR, M/S. JEWEL HOMES PVT. LTD.,
JEWEL NEST, VASUDEVA ROAD, VASAND NAGAR,
EDAPPALLY SOUTH, KANAYANOOR,
ERNAKULAM DISTRICT, PIN - 682024

2 M/S. JEWEL HOMES PVT. LTD.
JEWEL NEST, VASUDEVA ROAD, VASAND NAGAR,
EDAPPALLY SOUTH, KANAYANOOR, ERNAKULAM,
REPRESENTED BY ITS MANAGING DIRECTOR,
PIN - 682024

BY ADV SHRI.V.PREMCHAND

RESPONDENTS/RESPONDENTS:

1 THE DISTRICT COLLECTOR
O/O DISTRICT COLLECTOR, COLLECTORATE,
CIVIL STATION, KAKKANAD,
ERNAKULAM DISTRICT, PIN - 682030

2 THE DEPUTY TAHSILDAR (REVENUE RECOVERY)
O/O DEPUTY TAHSILDAR (REVENUE RECOVERY),
COLLECTORATE, CIVIL STATION, KAKKANAD,
ERNAKULAM, PIN - 682030

3 **KERALA REAL ESTATE REGULATORY AUTHORITY**
TRINITY CENTRE, TC NO. 14/4354,
OPP CHAITHANYA EYE HOSPITAL,
KESAVADASAPURAM, PATTOM P.O, THIRUVANANTHAPURAM,
REPRESENTED BY THE CHAIRMAN, PIN - 695004

4 **JOHNY GEORGE**
S/O T.V. GEORGE, FORMERLY RESIDING AT:
THYSSERY HOUSE, VILLA NO.4, KUDAMALOOR,
KOTTAYAM - 686 017 AND NOW RESIDING AT:
THYSSERRY HOUSE, MANNANAM P.O. ATHIRAMPUZHA,
KOTTAYAM, PIN - 686561

5 **BEENA JOHNY**
W/O JOHNY GEORGE, FORMERLY RESIDING AT:
THYSSERY HOUSE, VILLA NO.4, KUDAMALOOR,
KOTTAYAM - 686 017 ,AND NOW RESIDING AT:
THYSSERRY HOUSE, MANNANAM P.O. ATHIRAMPUZHA,
KOTTAYAM, PIN - 686561

BY ADVS.
SHRI.M.GOPIKRISHNAN NAMBIAR
SHRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SHRI.PAULOSE C. ABRAHAM
SHRI.CHETHAN KRISHNA R.
SHRI.NANDAGOPAL S. KURUP, SC

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 23.02.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 23rd day of February, 2026

Soumen Sen, C.J.

The order of attachment/demand notice issued by the first respondent for realization of the amount payable to the fifth respondent was the subject matter of challenge in the writ petition.

2. The first petitioner is the Managing Director of M/s. Jewel Homes Private Limited. On the basis of a complaint filed under Sections 31 and 71 of the Real Estate (Regulation & Development) Act, 2016, at the instance of the private respondent, the Adjudicating Authority passed an order on 1.02.2021 directing the appellants to refund a sum of ₹25,00,000/- with interest at the rate of 14.05% per annum.

3. The said order was challenged before the Kerala Real Estate Appellate Tribunal in REFA Nos.20 and 44 of 2021. By order dated 28 October 2022, the Appellate

Tribunal remanded the matter directing the Adjudicating Authority to recalculate the compensation and also to determine the quantum of interest payable by the builder. Accordingly, by order dated 19 March 2024, the Adjudicating Authority directed payment of ₹25,00,000/- in instalments together with interest on the instalment amounts at the rate of 14.05%.

4. The appellants thereafter preferred an appeal before the Real Estate Appellate Tribunal, Ernakulam in REFA No.120 of 2025 along with an application to condone the delay. The Appellate Tribunal, by order dated 15.01.2026, refused to condone the delay, dismissed I.A.No.333 of 2025 and consequently, dismissed the appeal.

5. Aggrieved by the said order, a second appeal was preferred before this Court. By judgment dated 10 February 2026, the learned Single Judge disposed of the appeal with the following directions:

> “7. As regards the claim of the appellants that an

> amount of Rs.12.8 lakhs has been received by the complainants/respondents and the same has not been taken into consideration, this Court is of the view that the appellants have to workout their remedy by filing an appropriate application before the Adjudicating Authority, when the order is being put to execution. Therefore, the appellants shall be at liberty to raise the said plea through an appropriate application before the Adjudicating Authority in the execution, which is stated to be pending before it.
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> 8. The learned Senior Counsel further submits that the appellants will be given liberty to claim reworking of the interest for the amount already deposited. The appellants will be at liberty to seek appropriate relief before the Adjudicating Authority, if permissible under law."

It is contended that the above order was passed without affording an opportunity of hearing to the fifth respondent. From a bare reading of paragraph 7 of the judgment, it appears that the learned Single Judge may not have been informed that recovery proceedings were pending pursuant to the order dated 19 March 2024 passed by the Adjudicating Authority.

6. All that is now being claimed on behalf of the appellants is an adjustment of the amount already paid. It is needless to mention that the Recovery Officer is required

to calculate the amount due in terms of the order passed by the Adjudicating Authority on 19 march 2024 and there is no scope for any further adjudication in view of the fact that the said order has attained finality.

7. The learned counsel for the appellants has submitted that a sum of ₹12.20 lakhs is admittedly due to the fifth respondent. In the event, the said amount is deposited within a period of one week from today, the demand notice shall remain stayed until the Recovery Officer determines the actual amount due and payable under the order dated 19 March 2024 after affording a reasonable opportunity of hearing to the appellants.

8. However, there shall be an unconditional stay of the order of attachment for a period of one week. In the event the said amount is deposited within the aforesaid period, the Recovery Officer shall decide the matter in accordance with law and calculate the amount due and payable finally based on the order dated 19 March 2024.

The Recovery Officer shall conclude the proceedings within a period of eight weeks from today.

9. The first appellant shall not deal with, alienate or encumber the subject property in any manner whatsoever until the entire amount adjudicated by the Adjudicating Authority is paid.

10. It is needless to mention that in the event of failure to deposit the said amount within one week, the order of attachment shall stand enforced, especially since the agreement disclosed by the private respondent does not show that it was executed by the first appellant in his capacity as Managing Director of the second appellant company. Moreover, it is a private limited company in which the first appellant is having a substantial share.

11. By consent of parties, the writ petition is also taken up for final disposal and disposed of by this order. Accordingly, the writ petition and the writ appeal shall

stand disposed of. The Registrar (Computerisation)-cum-Director (IT) must ensure that both the matters are shown as disposed of in terms of this order.

Sd/-
Soumen Sen
Chief Justice

Sd/-
Syam Kumar V.M.
Judge

ds 23.02.2026