

STATE OF KERALA
IN THE SUBORDINATE JUDGE'S COURT, ERNAKULAM

Present:

Smt.Reshma Sasidharan, Additional Sub Judge - II

Thursday, the 20th day of November, 2025/ 29th Karthika, 1947

FDA.No. 13/2020 in OS No. 228/1994

Petitioner/ 3rdDefendant :-

N.O Joseph, S/o. Late Ouso, Nedumparambil(H),
Maradu P.O, Maradu Village,Kanayannur Taluk,
Pin-682 304.

By Adv. By Adv. C.T.Jestin

Respondent/Plaintiff/Defendants 1,2,4 to 23 & Addl. Defendants 24 & 25:-

- 1 N.O Lily, aged 81 years, W/o. Late Manuel Vallanat House,
Chalikkavattom Kara, Vennala P.O., Cochin-682 028.
- 2 N.O Peter, aged 84 years, S/o. Late Ouso, Nedumparambil(H),
Maradu P.O, Maradu Village,Kanayannur Taluk, Pin-682 304.
- 3 N.O Rockey, aged 78 years, S/o. Late Ouso,
Nedumparambil(H), Maradu P.O, Maradu Village,
Kanayannur Taluk, Pin-682 304.
- 4 N.O Elizabeth, aged 86 years, Nedumparambil(H),
Maradu P.O, Maradu Village, Kanayannur Taluk, Pin-682
304.
- 5 N.O Jessy, aged 70 years, D/o. Late Ouso, Nedumparambil(H),
Maradu P.O, Maradu Village, Kanayannur Taluk, Pin-682
304.
- 6 N.O Metilda, aged 68 years, W/o. Jossy, Kuttipirath House,
Mundamveli.P.O., Manassery Church (Died).

Legal Heirs of 4th Defendant:-

- 7 Jeevan.J Michael, aged 44 years, S/o.Late N.O Michael,
Nedumparambil House, Maradu P.O., Pin-682 304.
- 8 Viji M Michael, aged 42 years, S/o.Late N.O Michael,
Nedumparambil House, Maradu P.O., Pin-682 304.

Legal Heirs of 5th Defendant:-

- 9 Sister Avila, aged 65 years, D/o. N.O Mary, Carmel Bhavan, Pathanamthitta.P.O-689 645.
- 10 Mercy Jossily, aged years, D/o. N.O Mary and W/o. Jossily, Puthenpurakkal House No.12/430, Panayappilly, Kochi-2.
- 11 Flory Raphel, D/o. N.O Mary, Cherappil House, Nazareth, Kochi-2.
- 12 P.G Antony, S/o.N.O.Mary, Puthenveettil, Nettoor.P.O., Maradu Village, Pin682 026.
- 13 P.G Peter, S/o.N.O.Mary, Puthenveettil, Nettoor.P.O., Maradu Village, Pin682 026.

Legal Heirs of 7th Defendant:-

- 14 Jose K Damian, S/o. Jeltrude, Kunnel House, Thirumala Bhagam, Thuravoor, Manakkodu P.O, Pin-688 540.
- 15 Linta Joseph, So. Jeltrude, Kunnel House, Thirumala Bhagam, Thuravoor, Manakkodu P.O, Pin-688 540.

Legal Heirs of Plaintiff/ 1st Respondent:-

- 16 Lucy, aged 51 years, W/o P.G Manuel, Palaparambil House, Pananmpilly Nagar, Kochi-682 036.
- 17 Filcy, aged 49 years, D/o. Manual, C/o. Sanju Manuel, Vallanat House, Chalikkavattom, Vennala.P.O, New India Road, M.R.R.A-89, Pin-682 028.
- 18 Tessy, aged 47 years, W/o. M.X.K.Joseph, Matammal House, Nettoor.P.O., Pin-682 049.
- 19 Sanju Manuel, aged 45years, Vallanat House, Chalikkavattom, Vennala.P.O, New India Road, M.R.R.A-89, Pin-682 028.
- 20 Mrs.Jamma, W/o. Late Bright, Illiparambil House, Elamakkara, Kochi-682 026.
- 21 Bijoy Bright, S/o.Late Bright, Illiparambil House, Elamakkara, Kochi-682 026.
- 22 Binoy Bright,S/o.Late Bright, Illiparambil House, Elamakkara, Kochi-682 026.
- 23 Brive, S/o.Bright, Illiparambil House, Elamakkara, Kochi-682 026.

Additional Defendants:-

- 24 Babu C George, aged 66 years, S/o. George, Chandathil, BCG Bunglow Annex, Ambedkar Road, Vennala P.O, Edappally South Village, Pin-682 041.
- 25 M/s. BCG Health Care Pvt.Ltd., Formerly known as M/s.KHR Hospital Pvt. Ltd., having its registered office at BCG Estate, N.H.Bypass, Edappally South Village, Palarivattom Desom, rep. by its Director Denu Chandrathil Babu, aged 35 years, D/o. Babu C George, Chandrathil House, Vennala P.O, Edappally South Village, Pin 682 041.

Legal Heirs of 1st Defendant:-

- 26 Mary Shine, W/o.Freddy, aged about 51 years, Kolarikkal House, Chittoor.P.O., Pin-682 027.
- 27 Jose Bright, S/o.N.O Peter, aged 48 years, Nedumparambil House, Maradu P.O., Maradu Village, Kanayannoor Taluk.
- 28 P.G. Cyril aged 62 years , S/o.N.O.Mary, Puthenveettil Kundannur, Near Malabar Bakery, Maradu, Kochi-682 304.
- 29 Jossily, H.No.8/1984, Puthenpurakkal (H), Panayappilly.P.O., Kochi.
- 30 Varghese Prasad P.J, aged 46 years, H.No.8/1984, Puthenpurakkal (H), Panayappilly P.O., Kochi.
- 31 Mary Praisly, D/o.Jossily, Kollamparambil (H), Near Thuruthy Temple, Maradu P.O, Champakkara.

As per the Order in IA 2/2022 dated 13.12.2023 impleaded as R28 to R31.

- 32 Martin N.R, aged 42 years, S/o.Late Rocky, Nedumparambil(H), Kundannur Chilavannur Road, Maradu P.O, Ernakulam, Pin-682 304.
- 33 Karmily, aged 77 years, W/o. Late Rocky, Nedumparambil(H), Kundannur Chilavannur Road, Maradu P.O, Ernakulam, Pin-682 304.
- 34 Teresa, aged 53 years, W/o. Ouseppachan, Valyara (H), Madavana, Panangad P.O., Ernakulam, Pin-682 506.
- 35 Joseph, aged 55, S/o. Late Rocky, Nedumparambil(H), Fr.George Vakayil Road, Kettezhathum Kadavu, Maradu P.O, Ernakulam-682 304.

- 36 Antony Sebastian, aged 44 years, S/o. Rocky,
Nedumparambil(H), Kundannur Chilavannur Road,
Maradu P.O, Ernakulam-682 304.
- 37 Shija, aged 50 years, C/o.Francis Kanassery, T.K.S Road,
S.N Kakkara Lane, Inchakkal, Maradu P.O.,
Ernakulam-682 304.

As per the Order in IA 4/2023 dated 13.12.2023 impleaded as R 32 to R37.

**R1, R2, R4 to R6, R9 & R10,
R12, R14 to R23, R28, R35 to 37 - No Vakalath.
R7 & R8 -By Adv. Vanaja Ramaswami & Anjali N.
R11, R29 to R31 -By Adv. Praveen P P
R13- By Adv. K.S Jijo Sebastian
R24 & R25- By Adv. Afreena Sakeer & Johnson
R26 - By Adv. George Renoy & N.J Aswin
R27-By Adv. A.J varghese & Sibi Karun
R3, R 32 to R 34- By Adv. K.L.Joseph &
Joby Kuriakose T.J.**

This Petition is filed under Order 20 Rule 18 of the Code of Civil Procedure, 1908.

This petition coming on for hearing before me on 20.11.2025 the Court on the same day delivered the following:

ORDER

Both sides represented, IA 6/2023 was heard and on 20.01.2024 the Advocate Commissioner and Surveyor were appointed and the FDA 13/2020 was posted for filing Commission report as per the preliminary decree. From 20.01.2024 it is posted for filing commission report. In between several submissions were made by

the counsels and considering all of it the matter was proceeded with. The Hon'ble High Court of Kerala considering the pendency of the Suit from 1994 onwards and since the preliminary decree is of the year 1996, in OP(C) No. 193/2025 directed this Court to dispose the above FDA 13/2020 within 6 months. As per the direction of the Hon'ble High Court of Kerala the counsels as well as the Commissioner were directed to speed up the matter and to file the Commission Report. On 22.05.2025 it was submitted before this Court that the measurement is over of the property. But till date the Commission report is not filed. On 12.11.2025 the petitioner's counsel and the Commissioner submitted that the Surveyor has not handed over the sketch of the property. The measurement of the property was already over on a prior date to 22.05.2025 and for about 6 months the petitioner or the Commissioner did not take any steps to procure the sketch from the surveyor for facilitating the timely filing of the Commission Report. The petitioner and the commissioner was well aware about the direction of the Hon'ble High Court of Kerala. But the petitioner and the Commissioner had little regard for the direction of the Hon'ble High Court of

Kerala and they waited for about 6 months to submit before this Court that the sketch not produced.

In between no interim report filed by the Commissioner to notify the same to this Court. The petitioner also did not bring the matter to the attention of this Court. It shows stark disregard for the Order of the Hon'ble High Court of Kerala on the side of the petitioner. Already enough time given to the Commissioner. On 20.01.2024 the Commissioner was appointed . It shows that the petitioner is not at all interested in proceeding further with FDA 13/2020. The petitioner was willfully delaying the matter which shows disregard to the Order of Hon'ble High Court of Kerala. Hence this FDA 13/2020 is dismissed for non prosecution.

(Pronounced in Open court on this the 20th day of November, 2025)

Sd/-
Reshma Sasidharan
Additional Sub Judge - II

APPENDIX: Nil

Id/-
Additional Sub Judge - II

Typed by : Laj:
 Comp.by Smg:

ORDER
in
FDA 13/2020 in
OS No.228/1994
Dated: 20.11.2025.