

IN THE COURT OF THE CIVIL JUDGE(SENIOR DIVISION), ALAPPUZHA

Present:-Smt. Rekha Laurian, Civil Judge(Senior Division)

Wednesday the 6th day of November, 2024/15th day of Karthikam 1946

IA.28/2023 in OS.39/2020

Filed on 21.12.2023

Petitioner/Plaintiff:-

Johnson.V.Edicula, Valayil Berachah house,
Anapprampal South muri,Thalavady village,
Kuttanadu Taluk.

(By Adv. Oommen.N.Mathew)

Counter petitioner/Defendant:-

V.C.Chandy, Valayil House, Kunthirikkal.P.O.,
Thalavady South Muri,Thalavady Village,
Kuttanadu Taluk.

(By Adv. Cinu.P)

This Petition filed to amend the plaint having been finally heard on 05.11.2024 and court on 06.11.2024 passed the following:-

ORDER

Heard both sides. Perused the application and objection.

2. The petitioner has averred that the agreement could not be traced out at the time of institution of the suit. Since he was under the impression that it was lost in the flood of 2018. The contention raised by the respondent is that the petitioner has put forth a cooked up story in midst of the trial and it is a highly belated one.

3. On perused of the plaint and suit document it is seen that the plaintiff has pleaded about the agreement dated 28/5/12 and has produce the photocopy of the said document. Now he is seeking to amend the pleadings with regard to the execution and custody of the said document as the copy which was signed by the respondent was found only on the previous day. The petitioner is resident of Thalavady village of kuttanad and was worstly affected by the flood of 2018. so he was under the impression that the said document was lost in flood.

4. The true spirit of Order.6 Rule17 is to determined the real question in controversy between the parties. Here it is prima facie evident that in spite of due diligence the petitioner could not trace out the said document due to natural disaster. Since the agreement was already pleaded at the initiation of the suit I find that no prejudice will be caused to respondent if the amendment is allowed.

Hence I am inclined to allow this application. Carry out amendment with in 3 working days and produce amended plaint.

Pronounced by me in open court on this the 6th day November, 2024

Sd/-
REKHA LAURIAN
CIVIL JUDGE(SENIOR DIVISION)

Appendix:Nil

Sd/-
CIVIL JUDGE(SENIOR DIVISION)

Typed by:ss
Compd.by ck

**FAIR COPY OF ORDER IN IA.28/2023
IN OS.39/2020 DATE 06-11-2024**