

**IN THE COURT OF THE ADDITIONAL MUNSIFF, CHERTHALA**  
**Present: Smt. Akshaya P.R., Additional Munsiff**  
**Wednesday, the 10<sup>th</sup> day of November, 2021/19<sup>th</sup> Karthika 1943**

**I.A . No.3/2021 in O.S. No.222/2019**  
**Filed on 16.02.2021**

Petitioners/Defendants:-

1. Surendran, S/o. Divakaran, kalarikkal House, Ezhupunna South Muri, Kodamthuruth Village, Karumanchery.P.O, Cherthala Taluk, Alappuzha District.
2. Thulasi, W/o Surendran, kalarikkal House, of-do-do-
3. Sudheer, S/o. Surendran, Sudhevika karukaveliyil, of-do-do-

*By Adv. P.S. Anilkumar*

Counter Petitioner / Plaintiff:-

Rajappan, S/o Karumbi, Karukaparambil from Veluthedathu house, Ezhupunna South Muri, Kodamthuruth Village, Karumanchery.P.O. Cherthala Taluk, Alappuzha District.

*By Adv. M.M.Vinod*

This petition having been heard on 10.11.2021 and the court on the same day passed the following:-

**ORDER**

1. The Defendants filed petition to permit the Petitioner/Defendant to preserve the fences around the 'B' Schedule property to permit them to do annual maintenance work to protect and preserve their property.

2. Learned counsel for the Plaintiff filed objection to the same stating that the petition was filed by the Petitioner with malafide intention to illegally take the possession of the property owned by Block Panchayath Pattanakkadu with a public well situate within the fence. Further, the defendants are trying to create a new pathway through the property of the Plaintiff i.e., from the north - eastern side of the Plaintiff 'A' Schedule Property. Again, the Defendants have altered the status from the date of the Suit. Suit is one for demarcation of boundary. Hence, the IA is only liable to be dismissed.

3. Heard both sides.

4. Suit is one for Demarcation of boundary on eastern, western and northern side of the Plaintiff 'A' Schedule Property with Plaintiff 'B' Schedule Property with consequential Injunction. Here, the subject matter in dispute is the boundaries and the Plaintiff in their Plaint clearly pleaded that the cause of action began on the date on which Defendant tried to construct a compound wall on east, west and south of the Plaintiff 'B' Schedule Property. Further, the second Adv. Commissioner in his report clearly stated that there

are fences on all sides of the Plaint 'B' Schedule Property. Since the boundaries of the properties are the source of dispute I believe that no new constructions need be made there. Further, the Plaintiff had filed a survey commission application(IA 2/2020) and since the title of the parties are not in dispute, I believe that the only way out for the dispute is to dispose of that application at the earliest and through the same the dispute herein can be effectively and judiciously adjudicated. Therefore, considering the nature of contentions, rather than granting a temporary relief, I believe a permanent solution has to be framed expeditiously by disposing the Survey commission application. Thus, the IA is dismissed.

In the result, the IA is dismissed.

*Dictated to the confidential assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 10<sup>th</sup> day of November, 2021).*

Sd/-  
Akshaya P.R.  
Additional Munsiff

**Appendix:-Nil**

Id/-  
Additional Munsiff