

IN THE COURT OF THE PRINCIPAL MUNSIFF, CHERTHALA

Present: Sri. Rovin Rodrigues, Principal Munsiff

Thursday, the 10th day of July 2025/ 19th Ashadam, 1947.

IA 01/2025 in O. S. No. 265/2025

(Filed on 26.05.2025)

Petitioners/Plaintiffs:-

1. Krishna Shenoy, aged 90, S/o. Janardhana Shenoy, Puthankad Madathil, Padinjattumkara South Muri, Thuravoor Village, Cherthala.
2. Balagopala Shenoy, aged 57, S/o. Krishna Shenoy,-do-

By Adv. Jacob Tomlin Varghese.

Cr.Petitioner/Defendants:

1. Puthenkavu 80 Padashekara Neluyulpadaka Samithi, Rep. By President, Satheesh Shenoy, aged 48, S/o. Padmakumar Shenoy, Dhanwanthari Madom, Cherthala P.O.
2. Puthenkavu 80 Padashekara Neluyulpadaka Samithi, Rep. By Secretary, K.G. Antony, aged 61, S/o. K.K. George, Koyikaram Parambil, Netoor P.O., Ernakulam.

This petition having been finally heard on 10.07.2025 and the Court on the same day passed the following:-

ORDER

This petition is filed by the plaintiffs under Order XXXIX, Rule 1 read with Sections 94 and 151 of the Code of Civil Procedure.

2. **The petition averments in brief are:-** The first plaintiff absolutely owns the plaint item no. 1 property as per Partition Deed No. 1260 of 1995, and he is paying the land tax. The second plaintiff is his son, who manages the property. The defendants have no ownership or possessory rights over it. The plaint schedule property forms part of "Naduvile Puthenkad Padasekharam," a paddy field comprising bunds, canals, and other features, where fish farming is actively conducted. On 11-01-2022, the second defendant, claiming to be the secretary of the "Thuravoor Puthenkavu 80 Nellulpadaka Padasekhara Samithi," approached the first plaintiff and submitted a formal request seeking permission to install a 10 HP submersible electric motor and a 25-meter pipe to drain water from the paddy fields over the eastern granite bund of plaint item no. 1 property, and it was granted. However, during April and May, while the second plaintiff was away, the defendants trespassed into plaint item No. 1 property and constructed a new bund, obstructing fish farming activities and misusing the granted

permission, which was subsequently revoked. The newly constructed bund is scheduled as plaint item No. 2 property. Upon confrontation, the defendants threatened the plaintiffs and expressed their intent to further encroach. The plaintiffs have a prima facie case, and the balance of convenience favours them. Hence, the petition seeks a temporary injunction restraining the defendants from trespassing into the plaint schedule property and making any further constructions.

3. Notice and summons were served on the president of the first respondent/first defendant society. However, he didn't show up. The summons was served on the second respondent/second defendant-Secretary of the society, and the case was posted for return of summons to 28.07.2025. The petitioners/plaintiffs advanced the case, stating that the respondents/defendants have trespassed into the scheduled property and made further constructions. Hence, the case was advanced to 08.07.2025 and heard.

4. Heard and perused the records.

5. The petitioners' case is that they permitted the respondents to install a 10 HP submersible electric motor and a 25-meter pipe to drain water through the eastern granite bund of plaint item No. 1 property. However,

during April and May, while the second petitioner was away, the respondents are said to have entered the property without permission and built a new bund (plaint item no. 2), which blocked the petitioners' fish farming activities and misused the limited permission they were given, which was later taken back. Further, the respondents issued threats and have shown an intent to further encroach. The petitioners contend that they have a prima facie case in their favour, that the balance of convenience is on their side, and that irreparable injury would be caused to them if the respondents are not restrained.

6. On a perusal of the pleadings and materials on record, it is evident that the petitioners/plaintiffs have made out a prima facie case. The documents produced, particularly the title deed and tax receipt, support their possession and ownership over plaint item no. 1. The permission initially granted to the respondents/defendants was limited and has since been withdrawn. The Advocate commissioner has reported in the commission report dated 01.07.2025 that a new bund has been constructed on the property of the plaintiffs and it has obstructed the flow of water. The construction of the new bund during the absence of the second petitioner/second plaintiff raises a credible apprehension of further interference by the respondents/defendants. The balance of convenience lies in favour of the

petitioners/plaintiffs, as the continued acts of the respondents/defendants are likely to cause disruption to the fish farming activities and result in irreparable injury to the petitioners/plaintiffs. The injury apprehended cannot be adequately compensated in monetary terms. Therefore, in the interest of justice, an interim order of injunction is warranted.

As a result, the respondents/defendants, their agents, or any persons claiming under them are hereby restrained from trespassing into the plaint schedule item no. 1 property and from putting up any further constructions therein until further orders.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open Court on this the 10th day of July 2025)

Sd/-
Rovin Rodrigues
Principal Munsiff

Appendix: - Nil

Sd/-
Principal Munsiff

/True Copy/

Principal Munsiff

*Fair Copy of Order in
IA No.01/25in O.S.265/2025
Dated: 10.07.2025*