

**IN THE COURT OF THE ADDITIONAL MUNSIFF, CHERTHALA**

**Present: Sri. Mahesh. M., Additional Munsiff**

**Wednesday, the 6<sup>th</sup> day of August, 2025/ 15<sup>th</sup> Shravanam, 1947.**

**IA No. 03/2025 in O.S. No.510/2021**

(Filed on 14.01.2025)

**Petitioner/ Plaintiff:-**

Kabeer, aged 58, S/o Late Maammu,  
Alaakkal, Charamangalam Muri,  
Thanneermukkam Village, Cherthala.

**By Adv.M.M.Vinod & Adv.V.N.Madhusudanan**

**Respondent/Defendant:-**

Abubaker, aged 72, S/o Late Maammu,  
Alaakkal, Charamangalam Muri,  
Thanneermukkam Village, Cherthala.

**By Adv. Lakshmi.L.**

This petition having been finally heard on 06.08.2025 and the court on the same day passed the following :-

**ORDER**

This is a petition filed by the petitioner under Order 39 Rule 1 r/w Sec.94 (e) and 151 of CPC for directing the respondent to maintain status quo of Plaintiff Schedule Properties till the final disposal of the suit.

**2. Petition averments in brief are as follows:**

The petitioner herein is the plaintiff in the above case. The suit is filed for demarcation of boundary and for an injunction. The advocate commissioner has measured the Plaintiff Schedule Properties with the assistance of surveyor and filed a report and plan. After the measurement of properties the defendant by taking advantage of no demarcation in between the properties, is trying to alter the status of the Plaintiff Schedule Properties by extending the

temporary shed situated in the Plaint Schedule Properties and to induct strangers therein. The intention behind the acts of the defendant is to raise a new claim based on possession of the temporary shed. Hence it is necessary to direct the defendant to maintain status quo of the Plaint Schedule Properties till the disposal of the suit. The prima facie case and balance of convenience is in favour of the petitioner. Hence this petition.

**3. Respondent filed objection contending as follows:-**

The petition is not maintainable either in law or on facts. Although the suit has been filed by the plaintiff for fixation of boundaries, no steps have been taken by the plaintiff to measure the properties. Consequently, the defendant filed a commission application, which was allowed, and the Advocate Commissioner submitted a report before the court. As per the report, it is evident that the plaintiff has encroached upon another's property and has constructed illegal structures thereon. Following the filing of the commission report, the petitioner filed the present petition based on false claims. The averments in the petition are entirely contradictory to those in the plaint. The respondent has not committed any act that alters the status of the properties described in the plaint schedule. The petition appears to have been filed out of fear that the illegal structures constructed by the petitioner may be ordered to be removed. The properties scheduled in the plaint remain unchanged as of the date of the suit. The shed located on the defendant's property is being used by him for agricultural purposes, and this usage was permitted by the court as per the order in O.S. No. 498/2021. Despite being aware of this fact, the petitioner has filed the present petition solely with the intention of harassing the respondent. Hence the petition is liable to be dismissed.

**4. Heard both sides.**

5. The following points are raised for consideration;

1. Whether this petition is allowable or not?
2. What is the order?

**6. Point No.1 –**

The specific case of the petitioner is that, following the measurement of the properties, the respondent is attempting to alter the status of the Plaint Schedule Properties by extending a temporary shed situated therein and by inducting strangers into the said premises. Conversely, the respondent denies all allegations and asserts that he has not undertaken any such actions. It is further contended by the respondent that it is, in fact, the petitioner who has encroached upon the property of others and constructed illegal structures on the encroached portion. In support of this contention, the respondent relies on the survey commission report filed in the present case. Upon perusal of the pleadings and the survey commission report, it is evident that the respondent does not dispute the existence of a shed on his property. According to the respondent, the said shed is located entirely within his own property and is being used for agricultural purposes. The petitioner, however, alleges that the respondent is attempting to extend the said shed into the Plaint Schedule Properties, thereby altering their status. It is a well-settled principle of law that the subject matter of a suit must be preserved by both parties during its pendency, so as to safeguard the rights of each party and to ensure that the final adjudication is not rendered infructuous. The respondent has taken a categorical stand that he has not engaged in any activity that alters the status of the Plaint Schedule Properties. In view of this assertion, no prejudice will be caused to the respondent if an order of status quo is issued in respect of the said properties. Furthermore, the suit is now ripe for trial, and the survey commission report is

already on record. Any alteration to the status of the Plaint Schedule Properties at this stage would undoubtedly affect the rights and interests of both parties and may lead to complications in the adjudication of the suit. In light of the above, and in order to preserve the subject matter of the suit, this Court is of the considered view that the relief sought by the petitioner deserves to be granted. Hence this point is found in favour of the petitioner.

**7. Point No.2 :-**

In view of the finding in point No.1 the I.A. is allowed as follows.

**Both parties are directed to maintain status quo in respect of the Plaint Schedule Properties, as reported by the Advocate Commissioner in the Survey Commission Report dated 04.12.2024.**

*(Dictated to the Confidential Asst. transcribed and typed by her, corrected by me and pronounced in open court on this the 6<sup>th</sup> day of August, 2025.)*

Sd/-  
MAHESH M  
ADDITIONAL MUNSIFF

**APPENDIX :-NIL**

Sd/-  
ADDITIONAL MUNSIFF