

IN THE COURT OF THE PRINCIPAL MUNSIFF, CHERTHALA

Present: Sri. Rovin Rodrigues., Principal Munsiff.

Thursday, the 12th day of March, 2026/ 21st Phalgunam, 1947.

IA No.01/2023 in O.S. No.657/2023

(Filed on 01.12.2023)

Petitioner/Plaintiff:-

Reghuvaran, S/o Padmanabhan,
Udayapuram Veettil, Perumbalam.P.O,
Perumbalam Muri, Perumbalam Village.

By Adv.G.Harikumar

Cr. Petitioner/Defendant:-

Baby Sudarsanan, S/o Sekharan,
Thottankarayil, Perumbalam.P.O,
Perumbalam Muri, Perumbalam Village.

By Adv.S.S.Sathjith

This petition having been finally heard on 12.03.2026 and the court on the same day passed the following:-

ORDER

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

2. The petition averments, in brief, are as follows:-

The petitioner is the plaintiff in the original suit. He purchased the plaint schedule property under a registered sale deed dated 5 December 1988 from Pushpa Kumar, son of Raghavan. Ever since the purchase, he had been in

absolute, independent, and peaceful possession and enjoyment of the property, paying land tax regularly. The respondent has no manner of right, title, or interest over the property. He is attempting to trespass onto the property with fabricated disputes. The plaint schedule property occupies a prime location, and the respondent intends to seize it by any means. On 25 December 2023 the respondent unlawfully entered the property, conducted measurements, and attempted new construction which was obstructed by the petitioner's timely intervention. The respondent's acts were illegal, unauthorised, and amounted to a violation of the petitioner's lawful rights and possession. The petitioner has a prima facie case, and the balance of convenience is in his favour. If an interim injunction is not granted, it would cause irreparable injury and hardship to the petitioner. Hence, it is prayed that the Court may grant a temporary injunction restraining the respondent, his men, agents, or anyone claiming under him from interfering with the petitioner's peaceful possession, enjoyment, and use of the plaint schedule property. Hence, the petition.

3. The respondent/defendant filed an objection with the following contentions:-

The petition is neither maintainable nor made in good faith. The petitioner has no authority or right to institute such a claim. The sale deed dated 5 December 1988 bearing No. 3074, relied upon by the petitioner, is fabricated and fraudulent. The property description therein relates to one cent of land on the southern extremity of the 7 cents of property in Survey No. 53/7B. It was falsely inserted, and the plaint schedule property is not covered under that deed. The tax receipts produced by the petitioner are also not genuine and conferred no rights. Pushpakumar, from whom the petitioner claims title, had derived his rights only under a prior sale deed, no. 3632/1986, executed by Sukumaran. Sukumaran owns one cent of land on the extreme east of the seven cents of

property in Survey No. 53/7B. He had no authority to execute a sale deed conveying rights over a different property in favour of Pushpakumar. Hence, the sale deed of 1988 relied upon by the petitioner conveyed no valid right or possession. The petitioner's documents are fraudulent and fabricated. The plaint schedule property is in fact part of the nine cents of land covered under the partition deed no. 433/1978, and it has been in the lawful possession and enjoyment of the respondent since then. The petitioner has instituted the present suit and injunction petition only to test whether he could establish any claim over the respondent's property. Hence, the petition may be dismissed with costs.

4. The following points arose for determination:-

1. Does the plaintiff have a prima facie case in his favour?
2. In whose favour the balance of convenience exists?
3. Who will suffer irreparable injury if an interim order of injunction is granted or if it is not granted?
4. Reliefs and costs.

5. For the purpose of this petition, the documents produced from the side of the petitioner/plaintiff are marked as Exhibits A1 to A3. The respondent/defendant produced Exhibit B1 document. The commissioner's report and the rough sketch are marked as Exhibits C1 and C1(a)

6. Heard both sides and perused the records.

7. **Points 1 to 3:**

These points are considered together for the sake of convenience. The petitioner's case is that the respondent tried to trespass onto his property on 25.11.2023 and carried out measurements with the intent of grabbing the plaint schedule property. Exhibit A1 is the sale deed no. 3074/1988, dated 05.12.1988. It shows that the plaintiff purchased the plaint schedule property from

Pushpakumar. The property is described as one cent of land at the southern end of the seven cents of property in Survey no. 53/7B. Exhibit A2 is the sale deed no. 3632/1986 dated 25.08.1986, which states Pushpakumar purchased one cent of land from Sukumaran. The property described therein is one cent of land at the southern end of the seven cents of property in Survey no. 53/7B. Exhibit A3 is the sale deed no. 4512/1962 dated 04.10.1962 by which Vava purchased one cent of land from Krishnapanicker. However, the property described in the deed is one cent of land at the eastern end of the seven cents of property in Survey No. 53/7B.

8. The respondent's case is that the plaint schedule property does not belong to the petitioner and the same is wrongly described and based on fabricated deeds. The respondent claims that the plaint schedule property falls within the 9 cents of land that was obtained by him under the settlement deed no. 433/1978. Exhibit B1 is the partition deed no. 772/1985 dated 28.02.1985 by which the wife and children of Vava, including Sukumaran, partitioned their properties. As per the partition deed, B schedule properties were allotted to Sukumaran. The fourth item in the B schedule is described as one cent of land at the eastern end of the seven cents of property in Survey No. 53/7B.

9. According to the Exhibit-C1 report, the plaint schedule property is situated on the north of Perumbalam Market-Vathikkad Road. There is an old half wall on the eastern side with a boundary stone facing south. The southern portion of the property was lying open without any fence or gate. However, the commissioner noticed that a hedgestick fence had previously existed in the southern area. The sticks were lying here and there and appeared to be a new fence. The commissioner reported the presence of an old, poorly maintained hedgestick fence on the western side. The commissioner saw two boundary stones along the western fence. On the western fence, a barbershop was located

at the southern end. The property's northern boundary was a wall. The commissioner reported that there was a partially constructed Gurumandiram on the plaint schedule property. The commissioner further reported that the property was not properly maintained and there were tall grasses and bushes inside. The commissioner also noticed a portion of land having 7-metre length and 13.10-metre width in between the plaint schedule property and the public road. As informed by the petitioner the commissioner reports that the said land was puramboke.

10. From the documents produced by both sides, it is evident that the dispute mainly relates to the identity and title over the one-cent property in Survey No. 53/7B of Perumbalam Village. The correct identification of the property and the validity of the petitioner's title can be properly adjudicated only after a full trial and evidence. The Exhibit C1 report shows that the property is not properly maintained and contains grass and bushes. It does not clearly establish exclusive possession of either party over the property. At the same time, the existence of boundary walls, fences and boundary stones indicates that the property is clearly demarcated.

11. At the stage of considering an application for temporary injunction, this Court has to examine whether a prima facie case exists and whether the balance of convenience and irreparable injury justify the grant of interim relief. A detailed adjudication on the title and identity of the property is not warranted at this stage. In such circumstances, it is necessary to preserve the subject matter of the suit until final adjudication. If the respondent is allowed to make constructions or alter the nature of the property during the pendency of the suit, it may cause complications in the final adjudication of the suit. Therefore, the balance of convenience lies in maintaining the property in its present condition. Refusing the injunction and allowing the respondent to proceed with

construction or interference could cause irreparable injury to the petitioner. On the other hand, granting an injunction would only restrain the respondent from altering the existing condition of the property until the rights of the parties are determined. Hence, points 1 to 3 are answered in favour of the petitioner.

12. Point 4:

In view of the findings on the above points, the petition is liable to be allowed.

As a result, the petition is allowed as follows:

The respondent/defendant, his men, or anyone claiming under him is restrained by a temporary injunction from trespassing onto the plaint schedule property and altering the nature and lie of the property until disposal of the suit.

Considering the circumstances of the case, there is no order as to costs.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open Court on this the 12th day of March, 2026)

Sd/-
Rovin Rodrigues.,
Principal Munsiff

Appendix :-

Exhibit for the Petitioner:-

A1	05.12.1988	Certified copy of Sale deed No.3074/1988 of SRO, Panavally
A2	25.08.1986	Certified copy of Sale deed No.3632/1986 of SRO, Panavally
A3	04.10.1962	Certified copy of Sale deed No.4512/1962 of SRO, Kuthiathode.

Exhibit for the Respondent:-

B1 28.02.1985 Certified copy of Partition deed No.772/1985
of SRO, Panavally

Court Exhibits:-

C1, C1(a) 18.12.2023 Commission report and Rough plan filed by
Adv. Treesa Divine Sonnete.

Sd/-
Principal Munsiff