

**IN THE COURT OF THE MUNSIFF, HARIPAD.  
Present: Smt. Maneesha K Bhadran, Munsiff  
Monday, 23<sup>rd</sup> March, 2026/4<sup>th</sup> Phalgunam 1947**

**IA. No.1/2025 in OS. 387/2025**

**(Filed on 10.11.2025)**

**Petitioners/ Defendants**

1. Yamini Devi@ Yaminikutty, Aged 52 years,  
D/o Kesavan Namboothiri,  
Kallambally illam,  
Muttam Muri, Cheppad Village,  
From Palathinkara Illam, Kuttemperoor.P.O,  
Mannar.
2. Yamunadevi, Aged 50 years,  
D/o Kesavan Namboothiri,  
Kallambally illam,  
Muttam Muri, Cheppad Village,  
From Chandramana Illam,  
Kumarakam Thekkum Bhagam,  
Kumarakam Village, Kottayam District.

**By Adv. D. Vijayambika**

**Respondent/ Plaintiff**

1. Krishnan Namboothiri,  
Aged 75 years,  
S/o Narayanan Namboothiri,  
Kallambally Anugraha, Muttam Muri,  
Cheppad Village.
2. Mahesh, Aged 39 years,  
S/o Krishnan Namboothiri,  
Kallambally Anugraha, Muttam Muri,  
Cheppad Village.

**Adv. B. Latha**

This petition having been finally heard on 11.03.2026 and the court on 23.03.2026 passed the following:

**ORDER**

**Petition for temporary injunction.**

2. **Petition averments in brief are as follows:-** Suit is one for

declaration of title, fixation of boundary and injunction both mandatory and prohibitory. Plaintiffs are siblings and first defendant is the paternal uncle of plaintiffs. Kesavan Namboodiri, the father of plaintiffs obtained 8 cents of property as per partition deed No.2420/1976 of Cheppad SRO and he was in exclusive possession and enjoyment of the same. He conveyed plaintiff schedule item No.1 and 2 properties having an extent of 60 sq.metres each to first plaintiff and Saudamini Devi, the sister of plaintiffs, as per Settlement deed No.797/1997. Saudamini Devi executed Settlement deed No.1656/2023 of Cheppad SRO in favour of second plaintiff. Plaintiff schedule item No.3 is the remaining 5 cents of property of Kesavan Namboodiri encroached by defendants. Plaintiff schedule item No.1 and 2 properties are lying contiguously to the south of plaintiff schedule item No.3 property. Plaintiff schedule item No.4 is the property of first defendant obtained as per partition deed No.2420/1976 of Cheppad SRO. On 06.12.2024, defendants taking advantage of the absence of plaintiffs constructed a boundary wall trespassing into plaintiff schedule item No.1 and 2 properties. Plaintiff schedule item No.5 is the portion of plaintiff schedule item No.1 and 2 properties trespassed by defendants. Plaintiff schedule item No.6 is the boundary wall constructed by defendants in plaintiff schedule item No.5 property. On

21.04.2025 defendants attempted to renovate the boundary wall and clear the vegetation therein. Defendants are further attempting to trespass into plaint schedule properties and commit waste therein. Hence the above petition for temporary injunction restraining defendants from trespassing into plaint schedule properties, making any new constructions therein, renovating plaint schedule item No.6 boundary wall.

**3. Respondents filed objection on the following terms:-**

Boundary wall separating plaint schedule item No.1 and 2 properties and item No.3 property was constructed in 2009. It is admitted that Kesavan Namboodiri obtained 8 cents of property as per Partition deed No.2420/1976 of Cheppad SRO. However, he had conveyed 5 cents of the above property to first defendant as per sale deed No.2363/1982 of Cheppad SRO and the same is lying contiguously with the property of first defendant. It is denied that Kesavan Namboodiri was in possession and enjoyment of plaint schedule item No.3 property and the same was trespassed and encroached by defendants. Defendants have merely renovated the existing boundary wall without committing any act of trespass. It is denied that plaintiffs have right over plaint schedule item No.5 and 6 properties. Plaintiffs

have no prima facie case and balance of convenience is not in their favour. No irreparable injury will be caused to them, if the above petition is dismissed. The above petition is without any bonafides and is filed suppressing material facts.

4. On the side of the petitioners, Exts.A1 to A5 and Ext. C1 series were marked. On the side of the respondents, Exts.B1 to B3 were marked.

5. Heard both sides.

6. The points that arise for consideration are as follows:-

- 1) Whether petitioners have made out a prima facie case in support of the claim for interim injunction?
- 2) In whose favour the balance of convenience exist?
- 3) Whether the petitioners will be put to irreparable loss and injury if an order of injunction is not passed?
- 4) Whether the petitioners are entitled to get interim injunction as prayed for?
- 5) Reliefs and cost?

7. **Point Nos. 1 to 4 :-** Suit is one for declaration of plaintiffs' title over plaint schedule item No.1 and 2 properties, fixation of boundary and injunction both mandatory and prohibitory. The contention of plaintiffs is that they obtained plaint schedule item No.1 and 2 properties as per Settlement deed No.797/97 and 1656/2023

of Cheppad SRO. It is further contended that plaintiff schedule item No.3 property belonging to their father was encroached by defendants who had constructed plaintiff schedule item No.6 boundary wall encroaching into plaintiff schedule item No.1 to 3 properties. Defendants on the other hand deny any act of trespass and contend that they obtained plaintiff schedule item No.3 property as per Sale deed No.2363/1982 of Cheppad SRO executed by father of plaintiffs.

8. Ext A1 is the copy of partition deed No.2420/1976 whereby Kesavan Namboodiri, the father of plaintiffs obtained 8 cents of property. Ext.A2 is the copy of Settlement deed No.797/1997 of Cheppad SRO whereby first plaintiff and her sister obtained plaintiff schedule item No.1 and 2 properties. Ext.A3 is the copy of settlement deed No.1656/2023 of Cheppad SRO executed by Saudamini Devi, the sister of second plaintiff, in her favour. Exts.A4 and A5 are the tax receipts of plaintiff schedule item No.1 and 2 properties.

9. Ext.C1 commission report has identified plaintiff schedule properties. The existence of plaintiff schedule item No.6 boundary wall about 2 years old is also reported. Plaintiff schedule item No.1 and 2 properties are identified on the south of the property of first defendant. The static contention of plaintiffs is that plaintiff schedule

item No.5 property is encroached by defendants who constructed plaintiff schedule item No.6 boundary wall therein. Plaintiffs have also sought for a mandatory injunction directing defendants to demolish plaintiff schedule item No.6 boundary wall.

10. Defendants vehemently contend that first defendant obtained 5 cents of property as per Ext.B1 sale deed No.2363/1982 executed by Kesavan Namboodiri. A perusal of the boundary description in Ext.B1 would show that on the south of the property conveyed therein is the property of Kesavan Namboodiri and his wife. The property conveyed as per Ext.B1 is on the northern extremity of the 8 cents in east-west direction and lying adjoined to the property of first defendant. Ext.B1 is a registered document and the same would entail a presumption that it is duly executed. Further the boundary description in Ext.A2 would also show that the property of first defendant is on the north. A conjoint reading of Ext.A2 and Ext.B1 would show that defendants have not trespassed into plaintiff schedule properties.

11. The suit being one *inter alia* for fixation of boundary, with the available evidence, it cannot be ascertained whether the plaintiff schedule item No.1 and 2 properties are encroached and annexed by

respondents. Whether defendants have trespassed and encroached into any portion of plaint schedule item No.1 and 2 properties is a matter which have to adjudicated after trial. Considering the facts and circumstances of the case, I am satisfied that petitioners have not established a prima facie case that plaint schedule item No.1 and 2 properties are encroached and annexed by the respondents to their property. Balance of convenience is also not in favour of the petitioners. No irreparable injury will be caused to petitioners if an order of interim injunction is not granted. On the other hand, if injuncted, respondents will be put to irreparable injury and denuded from enjoying the property obtained as per Ext.B1. The above points are answered against petitioners.

12. **Point No. 5:-** In light of the above discussion, I find no merit in the above application and is liable to be dismissed.

***In the result,***

- 1) The above petition is dismissed.
- 2) Considering the facts and circumstances of the case parties are directed to bear their respective costs.

Dictated to Confidential Assistant, typed by her, corrected by me and pronounced in Open Court on this the 23<sup>rd</sup> day of March, 2026.

Sd/-

**Maneesha. K .Bhadran**

**Munsiff**

**APPENDIX-**

**Exhibits for the Petitioner.**

A1	27.12.1976	Copy of partition deed No. 2420/1976 issued by Haripad SRO.
A2	10.04.1997	Copy of settlement deed No. 797/1997 issued by Cheppad SRO.
A3	7.12.2023	Copy of Settlement deed No. 1656/2023 issued by Cheppad SRO.
A4	3.04.2025	Tax Receipt of Plaint schedule item. No. 1 issued by Cheppad Village.
A5	12.06.2024	Tax receipt of plaint schedule item No. 2 issued by Cheppad Village.

**Exhibits for the Respondents**

B1	23.12.1982	Sale deed No. 2363/1982 issued by Cheppad SRO.
B2	10.06.2025	Tax receipt issued by Cheppad Village.
B3	25.11.2024	Notice issued by Taluk Surveyor Cheppad.

**Court Exhibits.**

C1 Series	10.11.2025	Mahazar and Report prepared by Advocate Commissioner Bhagya Padmajan.
C1(a)	10.11.2025	Rough sketch prepared by Advocate Commissioner Bhagya Padmajan.

**Id/-  
Munsiff**