

IN THE COURT OF THE MUNSIFF, KAYAMKULAM

Present: Smt. A.Aneesa, Munsiff

Thursday the 29th day of May, 2025/8th Jyaishta , 1947

IA. 4/2025 in OS.475/2013

(Filed on 12.02.2025)

Petitioner/Plaintiff: Rajendran, aged 61 yrs,
S/o. Sreenivasan,
Meenatheril Vadakkathil,
Njakkanal Muri,
Krishnapuram Village

(By Adv. S.Jeevakumar)

Respondent/Defendant: Raveendranathan, aged 72 yrs,
S/o. Sreenivasan,
Chandrika Veettil,
Njakkanal Muri,
Krishnapuram Village.

(By Adv.Mohammad Basheer)

This petition having been finally heard on 29.05.2025 and the court of the same day passed the following.

O R D E R

This is an order in a petition filed under Order XXVI Rule 10(3) of the Code of Civil Procedure, 1908 to remit back the commission report and survey plan.

2. The gist of averments in the petition are as follows:-
Petitioner is the plaintiff in this case. This suit is filed for measuring out plait A and B schedule properties on the basis of title deeds and revenue records and for fixation of boundary between them. The case was listed for trial on 17.02.2025. As per the order in I.A.No. 1/2023, the commissioner and surveyor measured out the plaint schedule properties and prepared a commission report and survey plan. But, in the said report, some mistakes occurred and it is came to the knowledge of the plaintiff only on perusal of the objection filed for the said report and survey plan. In the commission report, it is mistakenly stated as 'the first schedule property in the partition deed No. 1744/2003' instead of 'second schedule.' Moreover, there is no clarity with regard to the northern boundary line of plaint A schedule property. There is also clarity is required to the extent of plaint B schedule property. The said mistake can be cured within a short period. Hence for the interest of justice and for the just decision of the case, the commission report and survey plan are to be remit back to the commissioner for rectifying the above mentioned mistakes. Thus, the petition.

3. The respondent filed objection contending *inter alia* as follows:- The petition is not maintainable either in law or on facts. The 1st and 2nd paragraph of the affidavit are correct. Only after filing objection, the petitioner is realised the mistakes occurred in the commission report. Thus, the petition itself is not allowable. Thus, the respondent sought to dismiss the petition.

4. The following points were formulated for consideration:-

1. Is the petitioner entitled for an order to remit back the commission report and plan as sought for ?

2. What shall be the order as to reliefs and costs?

5. Heard both sides.

6. **Point No. 1**:- The petitioner herein filed this petition for remitting back the commission report and plan for curing defects. On perusal of the commission report and plan, it is seen that the commissioner mistakenly stated as 'the first schedule property in the partition deed No. 1744/2003' instead of 'second schedule.' Moreover, there is no clarity with regard to the northern boundary line of plaint A schedule property. There is also clarity is required to the extent of plaint B schedule property. On all these grounds, I am

inclined to allow this petition. Thus, point No. 1 is found in favour of the petitioner.

7. **Point No. 2**:- In view of my discussions and findings on point No. 1, the petition is liable to be allowed.

In the result, the petition stands allowed. The commission report and plan are remitted to the commissioner for curing defects. The commissioner is directed to rectify the defect in the plan and shall file the report within seven days from today.

(Dictated to the confidential assistant, transcribed and typed by her, corrected and pronounced by me in open court on 29th day of May, 2025.)

Sd/-
ANEESA.A
MUNSIFF

APPENDIX: Nil.

Sd/-MUNSIFF

// True copy//

MUNSIFF

Typed by:
Compd.by