

IN THE COURT OF THE SUB JUDGE, CHENGANNUR

Present :- Smt.Veena.V.S, Sub Judge

Saturday, the 28th February 2026/09th Phalgunam 1947

IA No. 07/2025 in OS 20/2025

(Filed on 29.11.2025)

- Petitioners/Plaintiffs :-**
1. Vandimala Devasthanam Trust,
Thittamel, Chengannur
Represented by its Secretary
Manu Krishnan, aged 41 years,
Manatharayil Veetil, Thittamel Muri,
Chengannoor .P.O, Chengannur Village.
 2. P.A.Ashokan, aged 46 years,
(President of Sree Vandimala Devasthanam Trust)
Chayippil Veetil, Thittamel Muri,
Chengannoor P.O, Chengannoor Village.
 3. Manu Krishnan, aged 41 years,
(Secretary of Sree Vandimala Devasthanam Trust)
Manatharayil Veetil, Thittamel Muri,
Chengannoor .P.O, Chengannur Village.

***(By Adv. Murali Manohar, Adv. Vishnu Manohar &
Adv. Nithin.C.Regji)***

- Respondents/Defendants :-**
1. State of Kerala
Represented by District Collector Alappuzha,
Collectorate, Alappuzha.
 2. The Revenue Divisional Officer,
Revenue Divisional Office, Chengannur.
 3. The Tahsildar,
Village Office, Chengannur.
 4. The Village Officer,
Village Office, Chengannur.
 5. Chengannur Municipality,
Represented by Secretary,
Municipal Office, Chengannur.
 6. The Secretary,
Chengannur Municipality,
Municipal Office, Chengannur.
 7. Mahesh Madhu, aged about 45 years,
Mahesh Bhavanam, Erumakkuzhi,
Nooranadu.P.O, Nooranadu Village,
Mavelikara Taluk.

[R1 to R4 - By Adv. Divya Unnikrishnan, Addl.Govt.Pleader

R5 & R6- By Adv. George Thomas

R7 - By Adv. George Philip]

This petition having been finally heard on 24.02.2026 and this court on 28.02.2026 passed the following.

ORDER

The petition is filed under Order VI Rule 17 r/w Sec.151 CPC.

Petition averments in brief are as follows:-

2. The petitioner is the Secretary of the 1st plaintiff trust in OS 20/2025. The petition is filed for and on behalf of the 2nd and 3rd plaintiffs. The suit was originally instituted for permanent prohibitory injunction when the plaintiffs got an information that defendants attempted to evict the plaintiffs from plaint schedule item No. 3 property. It is highly necessary to incorporate the declaratory relief by amending the plaint. For that purpose Sec. 80 CPC notice was served to the defendants and no reply was furnished by the defendants even on expiry of the period of the notice. Hence the petition is filed.

3. The respondents filed objection by contending that the petition is not maintainable either in law or on facts. The amendment sought for is by claiming easement by prescription over the plaint schedule item No. 3 pathway which was used by the plaintiffs and the public. So the said declaratory relief as sought for is not sustainable. There is no bonafide in filing the suit without serving Sec. 80 CPC notice prior to the institution of the suit. The petition is only with intention to harass the defendants and on experimental basis. Hence the petition may be

dismissed.

4. From the petition averments and contentions in the objection the following points were raised for consideration.

1. Whether the prayer in the petition is allowable?

2. Reliefs and costs?

5. There is no evidence adduced from either side.

6. Heard both sides. Perused the records.

Point Nos. 1 and 2 :-

7. The petitioner is the Secretary of the 1st plaintiff trust in the above suit. The suit was originally instituted for permanent prohibitory injunction. Now the plaintiffs prayed to incorporate the relief of declaration by amending the plaint after serving Sec. 80 CPC notice to the Government Officials who are the defendants in the case. The defendants challenged the maintainability of declaratory relief on the ground that the plaintiffs claimed prescriptive right of easement over a public pathway.

8. The law is trite that the maintainability of the relief sought for and the chance of the plaintiffs to succeed the case need not be looked into while disposing the amendment petition. It is true that the plaintiff is the master of the suit. The amendment petition is filed at the infant stage of the case. It is the settled

legal position that liberal approach should be taken if amendment petition is filed at the early stage of the case. I am satisfied that the amendment sought for will not change the basic structure of the case. Since the defendants denied the right of the plaintiffs over the plaint schedule item No.3 property, the plaintiffs have right to declare their right over the said property. If the petition is not allowed it will cause irreparable injury and hardship to the case of the plaintiffs and it may lead to multiplicity of suits. By allowing the petition no prejudice is caused to the case of the defendants. So in the interest of justice I am inclined to allow the petition.

In the result, the petition is allowed. No order as to costs. Carry out amendment within 7 days.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open court on this day, 28th February 2026)

Sd/-
Veena. V.S
Sub Judge

Appendix: Nil

Id/-
Sub Judge

//True Copy//

Sub Judge