

IN THE COURT OF THE SUB JUDGE, CHENGANNUR

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

Tuesday, the 02nd December 2025/11th Agrahayana 1947

IA No. 11/2025 in OS No.23/2023

(Filed on 15.10.2025)

Petitioner

:- O.J Joseph, aged 60 years,
S/o.Joseph, Uruvanchiyil Veetil,
Puthenkavu Muri, Chengannur Village,
Chengannur Taluk, Alappuzha District.

(By Adv.P.K.Ajithkumar)

Respondents

- :-** 1. Achamma Alexander, aged 87 years,
W/o.Alexander,
Pullamvilalil Alex Villa,
Vanmazhi Muri, Pandanadu Village,
Chengannur Taluk, Alappuzha.
2. Saramma Thomas, aged 81 years,
W/o Thomas Jacob,
T.C 13/2170-4 K.V.R 251-B House,
Vanchiyoor Muri, Vanchiyoor Village,
Thiruvananthapuram Taluk,
Thiruvananthapuram District.
From Periyathu Veetil, Vanmazhi Muri,
Pandanadu Village, Chengannur Taluk,
Alappuzha District.

3. Jiji John, aged 49 years,
W/o.P.T John, Pulikkottil Veettil,
Keezhcherimel Muri,
Chengannur Village,
Chengannur Taluk, Alappuzha District.
4. P.T.John, aged 60 years,
S/o.P.N Thechan, Pulikkottil Veettil,
Keezhcherimel Muri,
Chengannur Village,
Chengannur Taluk, Alappuzha District.
5. Stephen, aged 30 years,
S/o.P.T.John, Pulikkottil Veettil,
Keezhcherimel Muri,
Chengannur Village,
Chengannur Taluk, Alappuzha District.
6. Chengannur Municipality,
Represented by its Secretary,
Municipal Office, Chengannur.

(For R1 & R2 Adv.P.K Sasidharan Pillai)
(For R3 & R4 Adv.P.J.Jose)

This petition having been finally heard on 02.12.2025 and this court on same day passed the following

ORDER

The petition is filed under Order VI Rule 17 and Sec. 151 CPC.

Petition averments in brief are as follows.

2. The petitioner is the plaintiff in the above case. The suit is for specific performance of contract and permanent prohibitory injunction. The defendants by violating the oral agreement with the plaintiff, transferred the property to additional 3rd and 4th defendants on 17-08-2023. So it is highly necessary to incorporate the prayer for declaring the said action of the defendants are illegal.

3. The respondents filed objection by contending that the petition is not maintainable either in law or on facts. The averments sought for is not clear as what action is to be declared as null and void is not mentioned in the petition. Hence the petition may be dismissed.

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

1. Whether the prayer in the petition is allowable?

2. Relief and costs?

5. Heard both sides. Perused the records.

Point Nos. 1 and 2

6. The suit is for specific performance of contract based on an oral agreement between the plaintiff and the 1st and the 2nd defendants. Now the plaintiff alleged that the defendants transferred the subject matter of property

involved in the contract to the 3rd and the 4th defendants by violating the oral agreement. So he prayed to incorporate the declaratory relief in the suit for declaring the violation of the oral agreement as null and void by amending the plaint.

7. The learned counsel for the respondents/defendants argued that the plaintiff did not ask for setting aside the sale deeds executed in favour of the 3rd and the 4th defendants even though the plaintiff was well aware of the said fact. Moreover, there is no clarity in the amendment sought for in the petition.

8. Whether the relief of setting aside the sale deed executed in favour of the 3rd and the 4th defendants should be included in the plaint or not has to be decided by the plaintiff as he is the master of the suit. The merit of the case need not be adjudicated while disposing the amendment petition at the pretrial stage. Further the degree of clarity in the pleadings and relief in the plaint is also at the choice of the plaintiff. The amendment sought for does not cause any prejudice to the case of the defendants and those are not sufficient to change the basic nature of the case. Moreover, the amendment petition is filed at the pre trial stage. It is the settled position that liberal approach should be taken while dealing with the amendment petition at the pre trial stage.

9. At this juncture, I am inclined to allow the petition. However, by reserving the objections raised from the side of the defendants, the petition is allowed as follows:

1. *The effect of the amendment should be from the date of the order of the amendment; not from the date of the institution of the suit.*
2. *Carry out amendment within 7 days.*
3. *The defendants can file additional written statement.*
4. *There is no order as to costs.*

Dictated to the confidential Assistant, transcribed and typed by her, corrected by me and pronounced in Open Court on this the 2nd day of December 2025.

Sd/-
Veena. V.S
Sub Judge

Appendix : Nil

Id/-
Sub Judge

//True Copy//

Sub Judge