

**IN THE COURT OF THE SUB JUDGE, CHENGANNUR**

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

**Thursday, the 12<sup>th</sup> March 2026/21<sup>st</sup> Phalgunam 1947**

**Review Petition No. 02/2026 in OS 24/2024**

(Filed on 05.03.2026)

**Petitioner/Plaintiff** :- Santhosh Oommen @ Santhosh.P.Oommen,  
aged 53 years, S/o. Oommen.P.A  
Pynummoottil House,  
Thittamel Muri, Chengannur Village,  
Now residing at 1102, SHEAR WATER IN  
GARLAND TEXAS, 75043, U.S.A  
Represented by Power of Attorney Holder  
Mohan Pillai.R.  
*(By Adv. Koshy Thomas)*

**Respondents/Defendants:-** 1. Salomy Thomas, aged 51 years,  
W/o. Thomas Joboy Philip,  
Anjalimoottil House,  
Cherukole Muri. Ezhakkadavu.P.O,  
Pin – 609104, Chennithala Village,  
Mavelikara Taluk, Now residing at  
2537, EREC DR. THE COLONY,  
TEXAS, 75056, U.S.A

2. Thomas Joboy Philip, aged 53 years  
Anjalimoottil House,  
Cherukole Muri. Ezhakkadavu.P.O,  
Pin – 690104, Chennithala Village,  
Mavelikara Taluk, Now residing at  
2537, EREC DR. THE COLONY,  
TEXAS, 75056, U.S.A
  
3. Lillykutty. E.M, aged 83 years,  
Pynnummoottil House,  
Thittamel Muri, Chengannur Village,  
Pin 689121, Now residing at  
1102, SHEAR WATER IN GARLAND  
TEXAS, 75043, U.S.A

***(R1 & R2 By Adv.Jaison John***

***R3 – By Adv. Noel Dani Charles)***

This petition having been finally heard on 11.03.2026 and this court on 12.03.2026 passed the following.

**ORDER**

The petition is filed under Order XXXXVII Rule 1 and Sec. 152 CPC.

Petition averments in brief are as follows:-

2. The review petition is filed on behalf of the plaintiff. From the side of the plaintiff PW1 to PW3 were examined. The Hon'ble Court dispensed the attendance of two witnesses. That was challenged by the plaintiff before the Hon'ble High Court. Even though step was taken to the Advocate Commissioner, he did not turn up. Instead of issuing warrant the court has shut down the evidence of the plaintiff on 16-02-2026. The counsel for the plaintiff filed a memo that OP Civil is filed. The counsel filed a leave petition as IA 2/2026 for allowing to file transfer petition. The petition was dismissed. When the case was posted to 25-02-2026 for defendants evidence, they filed affidavit without serving copy to the plaintiff. The plaintiff did not get any chance to cross examine the defendant. The court has not given any breathing time to produce order in OP Civil 555/2026 and OP transfer filed before the Hon'ble District Court Alappuzha instead the court posted the case for hearing on 05-03-2026 and the order is illegal hence it is to be reviewed. The 3<sup>rd</sup> defendant did not get time to adduce evidence even though he filed written statement. The court is moving in very fast as a day to day trial case to over come the stay petition. Hence the petition is filed to review the order on 03-03-2026 closing the evidence and posted for hearing.

3. The 1<sup>st</sup> and the 2<sup>nd</sup> respondents filed objections by contending that the petition is not maintainable either in law or on facts. Even though issues were framed in the suit on 09-06-2025, the plaintiff has not produced any witness schedule or has not taken any steps to summon the witness within 15 days from the date of framing of issues. On 27-01-2026 he filed the witness schedule along with a petition to accept the same and to issue summons to some of the witnesses in the schedule as IA 1/2026 without showing the reason for issuing summons to those witness. By considering the nature of the case the evidence of Advocate Commissioner or witness No. 4 and 6 are not at all relevant. On 03-02-2026 the plaintiff and one witness were examined and the court issued summons to witness No. 5, 7 and 8. At the request of the plaintiff the court granted 7 days time for his further evidence and the court directed him to take steps and the case was posted to 10-02-2026 for further evidence. But the plaintiff neglected to obey the order of the court and no witness was present on 10-02-2026. On that date also the court again granted 6 days time to the plaintiff for adducing evidence and directed to take steps to ensure the presence of the witness and the case was posted to 16-02-2026. Only one witness was present on that date. Then the court again granted one week time to the plaintiff to adduce further evidence and to take steps to witness and the case was posted to 23-02-2026. But the plaintiff failed to take steps to the witness and no witness was present on that date also. Even though the

court granted enough time to the plaintiff, he adopted an approach to lag the trial of the case. Hence the court closed the evidence of the plaintiff and posted for defence evidence to 25-02-2026. In the meantime the counsel for the plaintiff filed IA 1/2026 for transfer of this case to another court. Since the plaintiff filed IA 1/2026 it was considered on 25-02-2026. But the plaintiff was not turned up and there was no representation for him. Again the case was posted to 27-02-2026 on that date the petition was dismissed on merits and posted to 03-03-2026 for defence evidence. Proof affidavit of Power of Attorney Holder of D1 and D2 was filed on 26-02-2026, the plaintiff's counsel refused to accept the copy of the same. The Power of Attorney Holder was present on 03-03-2026 and was examined. But the plaintiff made no attempt to cross examine DW1. It is utter false that the court shut down the evidence of the plaintiff and the defendant filed proof affidavit without serving copy to the plaintiff. The allegations are not at all fair and it is against professional ethics also. The allegations in the petition are false and cannot be considered as sufficient grounds to review the order dated 03-03-2026. Hence the petition may be dismissed.

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

1. Whether the order dated 03-03-2026 of this court is liable to be reviewed?

2. Whether there is any apparent error on the order of this court passed on 03-03-2026?
3. Whether the petitioner has shown any sufficient grounds to review the order dated 03-03-2026?
4. Reliefs and costs?

5. There is no evidence adduced from either side. Heard both sides. Perused the records.

**Point Nos 1 to 4:-**

6. The review petitioner is the counsel for the plaintiff. He alleged that the court conducted the trial in speedy manner and he did not get any breathing time to adduce evidence or produce the orders in OP Civil 555/2026 and OP transfer before the Hon'ble District Court, Alappuzha. Without giving an opportunity to the plaintiff to cross examine the defendant, the court closed down the evidence on 03-03-2026. Further the defendant filed proof affidavit without serving any copy to the plaintiff.

7. The learned counsel for the defendants 1 and 2 brought the attention of the court into the fact that the case was included in the list of February and the court granted enough time to the plaintiff and the defendant for adducing evidence. The plaintiff did not ready to accept the copy of affidavit or cross examine the defendant even if the plaintiff's counsel was present on 03-03-2026.

8. It is evident from the case records that the case was posted to 03-02-2026, 10-02-2026, 16-02-2026, 23-02-2026 for the evidence of the plaintiff as per the request of the plaintiff's counsel. But the plaintiff only examined 3 witnesses from his side and he did not ready to take steps for issuing summons to the witnesses even if sufficient opportunity was granted by the court.

9. As per Order XVII Rule 2 (a) once the hearing of the suit has commenced it shall be continued from day to day until all the witnesses in attendance have been examined unless the court finds that for the exceptional reasons to be recorded by it, the adjournment of the hearing beyond the following day is necessary. Further Order XVII Rule. 2 (b) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party. So the aforementioned provisions of CPC envisages that the trial of the civil case should be conducted day after day. However, the court granted one month time for the plaintiff to adduce his evidence by taking steps to the witness. Without taking any steps in time for issuing summons to the witness, the plaintiff tried to drag the trial of the case. As rightly pointed out by the counsel for the respondents pendency of OP Civil or transfer petitions do not make a bar in the trial proceedings of the case in the absence of the stay order from proceeding the further trial of the case. Both parties admitted that since there was

no stay from the higher courts, the court is constrained to proceed the trial of the listed case.

10. In the review petition the petitioner alleged that he filed IA2/2026 which is a leave petition for allowing to file transfer petition. The case records shows that the said allegation is utter false and IA 2/2026 is the petition with a prayer to stay the trial proceedings of the case by this court itself for the purpose of transferring the case. As there was no such provision to stay its own trial proceedings, the court dismissed the petition.

11. Further the petitioner alleged that the defendant filed proof affidavit without serving copy and he did not get any chance to cross examination. It is evident from the case records that the said allegation is also false. The case was posted to 25-02-2026 for defence evidence. On that day the plaintiff and his counsel were absent and the defendant was only represented. Again the case was posted to 27-02-2026 and 03-03-2026. On 03-03-2026 the plaintiff's counsel submitted before the court that he did not ready to accept the copy of the affidavit filed in lieu of examination in chief by the Power of Attorney Holder of D1 and D2. He did not ready to cross examine the witness from the side of the defendant without showing any reason. Then after he falsely alleged in the petition that he did not get an opportunity to cross examine DW1. If he had any bonafide intention to cross examine DW1, he would have filed any adjournment petition

showing the reason for his failure to cross examine the witness appeared before the court for adducing evidence. Since the 1<sup>st</sup> and the 2<sup>nd</sup> defendants submitted that they had no further evidence, the evidence of the defendants were closed.

12. The review petitioner/plaintiff alleged that the 3<sup>rd</sup> defendant did not get any opportunity to adduce any evidence. It is relevant to note that in the written statement itself the 3<sup>rd</sup> defendant expressed her unwillingness to contest the case and prayed to exclude her from the party array and she wanted only both her children to live happily. At any point of the trial proceedings the 3<sup>rd</sup> defendant did not appear or be represented or cross examined any witnesses or contested the case in any manner. Further when the case was posted to 25-02-2026 or 03-03-2026 for the defence evidence, any of the defendants can adduce evidence if they had any such bonafide intention. Nonetheless it is relevant to note that the 3<sup>rd</sup> defendant's counsel filed two review petitions along with the review petitions of the plaintiff's counsel, those review petitions were dismissed for default due to the absence of the 3<sup>rd</sup> defendant with no representation.

13. From the above discussions I hold that the allegations raised by the plaintiffs counsel against the court and the 1<sup>st</sup> and the 2<sup>nd</sup> defendant are baseless. There is no apparent error on the face of the records for reviewing the order dated 03-03-2026. The petitioner has not shown any sufficient grounds to review the

order dated 03-03-2026. Hence I am not inclined to allow the prayer in the petition.

In the result, the petition is dismissed. 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 day, 12<sup>th</sup> March 2026)

Sd/-  
**Veena. V.S**  
**Sub Judge**

**Appendix: NIL**

Id/-  
**Sub Judge**

//True Copy//

**Sub Judge**