

IN THE COURT OF THE SUB JUDGE, CHENGANNUR

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

Thursday, the 12th March 2026/21st Phalgunam 1947

Review Petition No. 01/2026 in OS 24/2024

(Filed on 04.03.2026)

Review Petitioner/Plaintiff :- Santhosh Oommen @ Santhosh.P. Oommen,
aged 53 years, S/o. Oommen.P.A
Pynummoottil House,
Thittamel Muri, Chengannur Village,
Now at 1102, SHEAR WATER IN GARLAND
TEXAS, 75043, U.S.A
Represented by Power of Attorney Holder
Mohanan Pillai.R, S/o. Ramakrishna Pillai
Mohan Villa, Budhanoor P.O,
Ennakkad Village, Chengannur Taluk,
Pin – 689 510.
(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, residing at Salomy Thomas,
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, 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 by the counsel for the plaintiff on behalf of the plaintiff. From the side of the plaintiff PW1 and PW2 were examined. Steps were

taken to examine the Village Officer and the Advocate Commissioner. On 16-02-2026 the Village Officer was examined as PW3. But the Advocate Commissioner was not turned up. On 23-02-2026 the court closed the evidence of the plaintiff showing the reason sufficient time was given to the plaintiff to take steps and the plaintiff was not taken steps. Hence evidence was closed and posted for defence evidence. In the mean time the Advocate filed a memo stating that OP Civil 555/2026 is filed. Since there was no stay, the court proceeded further. The court has not issued warrant to Advocate Commissioner. Again plaintiff filed a transfer petition before the Hon'ble District Court Alappuzha. On 03-03-2026 defence evidence was completed and the case was posted for hearing on 05-03-2026. Even though two witnesses were discarded by the Hon'ble Court, there are more witnesses to be examined for the plaintiff. But shutting down the evidence of the plaintiff the plaintiff is not in a position to prove his case. Hence the order dated 16-02-2026 is to be reviewed by closing the evidence of the plaintiff or else the plaintiff will be put to hardship and misery. The Advocate Commissioner could prove the joint lie of the property. The 3rd defendant is thrown out of the house and the house is permanently locked. Hence the petition may be allowed.

3. The 1st and the 2nd 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. The plaintiff

even suppressed in the witness schedule that 11th witness in the schedule is the Power of Attorney Holder of the 1st and the 2nd defendants. Filing of OP Civil or transfer petition is not a bar to proceed the case especially when there is no stay by the higher court. The sole aim of the plaintiff is to make delay of the trial in any manner. The plaintiff's counsel is not even cared to furnish the copy of the petition to those defendants which is a sole ground for dismissal of the petition. There is no ground in the review petition to review the order on 16-02-2026. The Hon'ble Court has not closed the evidence of the plaintiff on 16-02-2026. Hence the petition may be dismissed with the costs of the defendants.

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

1. Whether the order dated 16-02-2026 of this court is liable to be reviewed?
2. Whether there is any apparent error on the order of this court passed on 16-02-2026?
3. Whether the petitioner has shown any sufficient grounds to review the order dated 16-02-2026?
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 counsel for the plaintiff filed the review petition for the plaintiff by alleging that without giving sufficient opportunity to the plaintiff for examining the witnesses from the side of the plaintiff the court shut down the evidence of the plaintiff on 16-02-2026. Even though the Advocate Commissioner was not turned up to appear on 16-02-2026, the court did not issue warrant. So it is highly necessary to review the order on 16-02-2026. The respondents contended that the petitioner purposefully tried to drag the trial of the case even though sufficient opportunities were given by the court to the plaintiff for adducing the evidence of the plaintiff. The plaintiff did not take steps to the witnesses in the witness schedule even though the court directed him to adduce evidence on 03-02-2026, 10-02-2026, 16-02-2026 and again 23-02-2026. According to him, filing of transfer petition or Op civil is not a bar to proceed the trial of the case especially when there is no stay from the higher court.

7. On perusing the case records it is obvious that the case was included in the list on 03-02-2026. But the plaintiff filed the witness schedule only on 03-02-2026. The court partly allowed the witness schedule and directed the plaintiff to take steps for issuing summons to the witness No. 5,7,8. The plaintiff and his wife were examined as PW1 and PW2 on 03-02-2026. But no witness were present on 10-02-2026. The plaintiff's counsel prayed one week time to

adduce further evidence. Again the court posted the case to 16-02-2026 with a direction to take steps for issuing summons to the witness. On that date only one witness was present and examined as PW3. Since the summons of the Advocate Commissioner was returned as unserved, the court ordered to repeat summons to witness No.8 who is the Advocate Commissioner. The plaintiff's counsel requested one week time on 16-02-2026 to adduce further evidence and the court again granted one week time to the plaintiff to adduce evidence and posted to 23-02-2026 for further evidence of the plaintiff. But the plaintiff did not take any steps to issue summons to witness No.8 without showing any reason. Since sufficient opportunities were granted to the plaintiff to adduce evidence from 03-02-2026 to 23-02-2026, the court closed the plaintiff's evidence only on 23-02-2026. From the review petition itself it made clear that still the plaintiff and his counsel were unaware of the fact that the court did not close the evidence of the plaintiff on 16-02-2026. Rather the court directed to repeat summons to the witness No.8. But the plaintiff was not diligent in conducting the case. The plaintiff did not show any reasons for his failure to take steps for issuing summons to the witnesses in the schedule by complying the order of the court.

8. The suit is for cancellation of settlement deeds, partition and consequential injunction. The plaintiff challenged the settlement deeds executed by his mother and sister who are the 3rd and the 1st defendants in the case on the

ground that they transferred more rights than they entitled. When PW1 was examined, he categorically deposed that he challenged the said documents because of the reasons that those documents were executed in his absence. He produced the disputed documents and prior title deed so as to adjudicate the issue. As rightly pointed out by the counsel for the respondents, the oral evidence of the Advocate Commissioner is not at all necessary for the fair adjudication of the fact in issue involved in this case. However, the court granted sufficient opportunity to issue summons to the Advocate Commissioner for proving his commission report, plan and mahazar. The case proceedings shows that due to the failure of the plaintiff to take steps for issuing summons to the Advocate Commissioner he could not appear before the court. Even though the plaintiff and his counsel were well aware of the said fact, in the petition he falsely alleged that the Commissioner did not turn up to the examination and the court ought to have issue warrant against him. Further the learned counsel for the petitioner did not explain why he incorporated Sec. 152 of CPC in filing the review petition.

9. The case proceedings shows that the plaintiff's evidence was not closed on 16-02-2026 and the court ordered to repeat summons to the Advocate Commissioner. Without taking any steps to repeat the summons against witness No.8 who is the Advocate Commissioner, the petitioner falsely alleged in the

petition that the court closed the plaintiff's evidence on 16-02-2026 and prayed to review the order dated 16-02-2026. The petition is devoid of any merit.

10. Perusing the order there is no apparent error existed upon the face of the order dated 16-02-2026. There is no sufficient ground alleged in the petition to review the order dated 16-02-2026. Hence the prayer in the petition is not at all allowable.

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, 12th March 2026)

Sd/-
Veena. V.S
Sub Judge

Appendix: NIL

Id/-
Sub Judge

//True Copy//

Sub Judge