

**IN THE COURT OF THE MUNSIF, CHENGANNUR
PRESENT SMT. AMALA LAWRENCE, MUNSIF
Tuesday 13th January , 2026(23rd Pousham 1947)**

IA 4/2025 in OS 339/2008

Filed on 18.12.2025

Petitioner/ : Ponnamma,
Defendant(1) Souparnikayil,Perissery Muri,
Puliyoor Village, Chengannur Taluk.

(By Adv. P.G.Sasidharan Pillai)

Respondant/ : 1. Soosamma Oommen (P2),
Vattayuzhathil Veetil,Perissery Muri,
Puliyoor Village, Chengannur Taluk.

2. Biju. V. Oommen (P3)
Vattayuzhathil Veetil,Perissery Muri,
Puliyoor Village, Chengannur Taluk.

3. Annamma Oommen (P4)
Vattayuzhathil Veetil,Perissery Muri,
Puliyoor Village, Chengannur Taluk.

4. P.C. Mathai (D2)
Vattayuzhathil Veetil, Perissery Muri,

5. Mariyamma Vargheese (D3)
Thundiyl,Perissery Muri,
6. S.Rajeev (D4)
Vattayuzhathil Veettil,
Perissery Muri,
7. Subhash (D5)
Vattayuzhathil Veettil,
Perissery Muri,
8. Ramany Sasi (D6)
Velathamparambil,
Perissery Muri.
9. T.M.Vargheese (D7),
Thundiyl,
Perissery Muri.
10. Chellamma (D8),
Munduchirayil,
Perissery Muri.
11. Sosamma Mathai (D9)
Munduchirayil,
Perissery Muri.

12. Soosi Mathai (D10)
Munduchirayil,
Perissery Muri.

13. Aliamma M.M (D11),
Munduchirayil,
Perissery Muri.

**(R1 to R3 By Adv.Suresh Mathai
R4- Died,
R6 to R8 By. Adv. P.K.Ajithkumar,
R11 to R13 By Adv. P.K. Ajithkumar)**

This petition having been finally heard on 08.01.2026 and the court on 13.01.2026 passed the following.

ORDER

This petition is filed by the defendant under Sec.145 of Indian Evidence Act and Sec. 151 of Code of Civil Procedure.

2. **Petition averments, in brief, are as follows:-** The petitioner is the first defendant in O.S. No. 339/2008, the additional sixth defendant in O.S. No. 250/2007, and the plaintiff in O.S. No. 252/2007. The above suits were ordered to be jointly tried, and O.S. No. 339/2008 was designated as the leading case. In the said joint trial, the additional third plaintiff was examined as PW1, and she was duly cross-examined by the learned counsel for the petitioner. Subsequently, PW1 was also cross-examined by the counsel for the

5th and 6th defendants and the additional 9th , 10th, and 11th defendants, and was thereafter re-examined. The suit has been filed for fixing the boundary of plaint schedule item No. 1 property and for restraining the defendants, including the petitioner, from encroaching into plaint schedule item No. 1 property and the plaint schedule item No. 2 pathway. Other than the said relief, no other claim or relief has been sought specifically against the first defendant, who is the petitioner herein. It is submitted that while PW1 was being cross-examined by the counsel for the 5th and 6th defendants and the additional 9th, 10th, and 11th defendants, several questions were put to her concerning the first defendant, and PW1 has given certain incorrect statements which are not borne out by the pleadings in O.S. No. 339/2008 or by her chief affidavit. In order to clarify and elicit the correct facts, it is necessary that PW1 be recalled and further cross-examined by the petitioner. Unless such opportunity is granted, it will cause serious prejudice and irreparable injury to the petitioner's defence in the suit. Hence, this petition is filed to recall PW1 for further cross-examination in the interest of justice.

3. **The 5th ,6th and 9th to 11th respondent filed objection alleging the following contentions:-** The petition is

not maintainable either in law or on facts. This objection is filed by the 5th and 6th defendants and the additional 9th to 11th defendants. The statement of the petitioner that the case is now posted for re-examination is factually incorrect. The re-examination of PW1 has already been completed in this case. The present petition has been filed after the re-examination of PW1, and therefore, the same is not maintainable. It is submitted that the petitioner has filed this petition without properly understanding the pleadings in the connected suits. The cross-examination of PW1 was conducted by the learned counsel for the 5th and 6th defendants and the additional 9th to 11th defendants, not merely on the basis of the pleadings in O.S. No. 339/2008, but also taking into consideration the pleadings in O.S. No. 250/2007. In O.S. No. 250/2007, the 1st defendant in O.S. No. 339/2008 is arrayed as the 6th defendant, and her husband is the 5th defendant. A joint trial has already been ordered in these cases, and therefore, the cross-examination was conducted jointly and comprehensively, referring to Exhibit B1 plan, which was produced from the side of the 4th to 6th defendants and the additional 9th to 11th defendants. It is further submitted that during the re-examination of PW1, no new facts were introduced. Hence, there exists no valid ground or necessity for recalling PW1 for any

further cross-examination. In view of the above facts and circumstances, this petition is devoid of merit and is liable to be dismissed.

4. The only point that arise for consideration is:-

Whether the petition is allowable?

5. Heard the learned counsel for petitioner and respondents. Perused records.

6. **The point:-** The case of the petitioner is that while PW1 was being cross-examined by the counsel for the 5th and 6th defendants, and the additional 9th , 10th , and 11th defendants, several questions were put to him concerning the first defendant. PW1 has given certain incorrect statements which are not borne out by the pleadings in O.S. No. 339/2008 or by her chief-examination affidavit. In order to clarify and elicit the correct facts, it is necessary that PW1 be recalled and further cross-examined by the petitioner. The respondents filed objections contending that the present petition has been filed after the re-examination of PW1 and, therefore, the same is not maintainable. It is further submitted that during the re-examination of PW1, no new facts were introduced; hence, there exists no valid ground or necessity for recalling PW1 for any further cross-examination.

7. On a consideration of the facts, it is seen that the suits O.S. Nos. 339/2008, 250/2007, and 252/2007 were ordered to be jointly tried, and O.S. No. 339/2008 was treated as the leading case. Considering the averments in the petition, this Court is of the view that the petitioner ought to be afforded a limited opportunity to further cross-examine PW1 for the purpose of clarifying matters made during the earlier cross-examination. The Court finds that permitting a brief further cross-examination will not cause any prejudice to the other defendants and will, on the contrary, aid in the effective adjudication of the issues in the joint trial. The petition does not seek to introduce any new facts or to prolong the proceedings but only to clarify the existing evidence on record. The Court, therefore, finds that the request is bona fide and necessary for the ends of justice. In the present case, recalling PW1 for the limited purpose of clarification will not cause any prejudice to the respondents; rather, it will assist the Court in arriving at a just and comprehensive adjudication of the issues involved in these connected suits. Accordingly, PW1 shall be recalled for further cross-examination by the counsel for the petitioner (first defendant) on the next date of posting fixed for evidence. The cross-examination shall be confined strictly to clarifications relating to

matters already on record and shall not travel beyond the scope of the pleadings, nor shall it be used to fill any lacuna in the evidence. Hence, I am of the view that the petition deserves to be allowed. Accordingly, the petition is allowed.

In result,

- 1) Petition is allowed.
- 2) Considering the facts and circumstances of the case, parties are directed to bear their respective costs.

(Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in open court on this the 13th day of January, 2026.)

**Sd/-
AMALA LAWRENCE
MUNSIFF**

Appendix:- Nil

**Id/-
MUNSIFF**

