

**IN THE COURT OF THE RENT CONTROLLER,  
CHENGANNUR**

**Present : Smt. Amala Lawrence, Rent Controller  
Wednesday, 18<sup>th</sup> day of March 2026/ 27<sup>th</sup> Phalguna 1947**

**IA No.1/2026 in RCP.No.5/2024  
(Filed on 20.01.2026)**

**Petitioner/  
1<sup>st</sup> Counter Petitioner** : Soby.K.Chervathoor,  
aged 42 years  
S/o Late C.M.Kuriakose  
Chervathoor Veetil,  
Keezhcherimel Muri,  
Chengannur Village,  
Chengannur Taluk.  
***(By Adv. Suresh Mathai &  
Adv. Vinay Varghese Mathai)***

**Respondent/  
Original Petitioner** : Babu John, aged 55 years,  
S/o Late M.V.John,  
Modiyuzhathil Veetil,  
Thittamel muri,  
Chengannur Village,  
Chengannur Taluk  
***(By Adv.K.Murali Manohar,  
Adv.Vishnu Manohar,  
Adv. Shijoy John Mathew &  
Adv. Rahul Kumar.R)***

This petition having been finally heard on 12.02.2026 and the court on 18.03.2026 passed the following:-

**ORDER**

This petition is filed under Order 26 Rule 10(iii) and Section 151 for setting aside the Commission Report.

2. **The petition averments in brief, are as follows:-** The petitioner is the original first respondent in the case. The present petition is filed seeking to remit back the commission report and mahazar submitted pursuant to the order in I.A. No. 4/2025. The petitioner contends that the Advocate Commissioner has not ascertained all the matters which were directed to be ascertained as per the order of this Hon'ble Court. It is further stated that the mahazar and report were prepared in the absence of the first respondent in the petition schedule shop room. In the mahazar, all the items kept in the front room of the petition schedule shop room have not been fully recorded, and the exact value of the fittings has also not been stated. Further, the mahazar does not contain the complete details of all the items kept in the wooden rack in the petition schedule shop room. It is also stated that the items found in the metal rack in the front room of the petition schedule shop room have not been fully noted in the mahazar. The observation in the commission report that the building has been leased to Reliance Supermarket for a period of 15 years is also incorrect. The building in which Reliance Supermarket is functioning is owned by the original petitioner and has been let out on the condition that it shall be vacated whenever required by the petitioner.

3. Further, the building in which Microlab is functioning is also owned by the original petitioner, as mentioned in the commission report. However, the fact that the said building has been let out only for a period of 11 months has not been mentioned in the commission report. In paragraph 6 of the mahazar, it is stated that a shopping complex known as "Padipurackal" is lying vacant. This statement is incorrect, as the construction of the said building has not yet been completed. The observation that there exists a building having an extent of 6,000 square feet opposite the Sambava Mahasabha Office is also incorrect. Even assuming that such a building exists, the commission report does not state whether the business presently conducted by the petitioner in the petition schedule shop room can be carried on in that building.

4. Further, the items mentioned on the 4th page of the mahazar as being stored in the godown of the petition schedule shop room have not been accurately recorded. There are more items in the shop room than those observed and noted by the Commissioner. The cost of the items mentioned therein has not been specifically stated, and the value of certain stocks in the petition schedule shop room has also not been properly recorded. All these matters have not been properly mentioned in the mahazar and commission report, apparently with the intention of supporting the case of the original petitioner herein. Hence, the commission

report is liable to be set aside and remitted back for proper ascertainment. Therefore, this petition is filed.

5. **The respondent filed objection contenting as follows:-** The petitioner has filed the above petition only as an attempt to delay the proceedings of the case. The allegations raised in the petition are baseless. The Hon'ble Court did not direct the Advocate Commissioner to ascertain the articles kept in the plaint schedule shop room. Therefore, the contention that the articles were not fully ascertained is without any merit. Further, the Advocate Commissioner is not an expert competent to determine the exact value of the fittings or articles in the plaint schedule shop room, and no such direction was issued by this Hon'ble Court. The petitioner, being a tenant, has no right to demand that the other buildings owned by the original petitioner should be made available for his use. The original petitioner is under no legal obligation to identify or provide suitable shop rooms for the tenants. In the above circumstances the petition is devoid of merit and is liable to be dismissed.

6. The point to be decided is:-

whether the present petition can be allowed?

7. Heard the learned counsel for petitioner and respondent.  
Perused records.

8. IA No. 4/2025 is the commission application filed by the first respondent. In the said application, it was prayed that an Advocate Commissioner be appointed to ascertain the stock kept by the respondents in the petition schedule shop room, the fittings available in the petition schedule shop room, the amount incurred for the same, and also to ascertain the availability of other buildings having approximately the same square feet as the petition schedule shop room. The main objection raised by the petitioner against the commission report and mahazar filed pursuant to the order in I.A. No. 4/2025 is that all the stocks in the petition schedule shop room have not been correctly ascertained and that the buildings noted as available in the locality have not been properly assessed so as to determine whether they are suitable for conducting the business presently carried on by the petitioner in the petition schedule shop room. The main contention raised by the respondent is that the present petition has been filed only with the intention of protracting the trial of the case. It is further contended that, as per the order in I.A. No. 4/2025, the Advocate Commissioner was not directed to conduct a complete inventory of the stocks kept in the petition schedule shop room, nor was the Commissioner directed to ascertain the exact square feet of the buildings available in the locality.

9. As per the order in IA. No. 4/2025, the Advocate Commissioner was directed to ascertain, in the most convenient and practicable manner, the stocks kept in the petition schedule shop room and the approximate square feet of the available shop rooms in the locality suitable for conducting the business of the respondents. On a perusal of the commission report filed pursuant to the order in IA No.4/2025, it is seen that the Advocate Commissioner has ascertained the stocks kept in the petition schedule shop room along with their approximate value and has also noted the fittings available in the petition schedule shop room, as sought for in the said application. The Commissioner has further mentioned the availability of other buildings in the locality along with their approximate square feet and their location.

10. Upon hearing both sides, the learned counsel for the respondent submitted before this Court that the stocks and their valuation can be verified from the stock register. The averments made in the petition seeking further ascertainment are not made with any bona fide intention and are not relevant for the purpose of deciding this case. On perusal of the affidavit filed in support of the petition, the commission report and the mahazar submitted pursuant to the order in I.A. No. 4/2025, it is clear that the matters directed to be ascertained by this Court have been properly ascertained by the Advocate Commissioner and reported

in the commission report and mahazar. The objections raised by the petitioner do not appear to be relevant to the facts of the case. Moreover, the case has already been listed for trial, and at this stage the filing of such a petition can only be considered as an attempt to protract the trial of the case. Therefore, I do not find any merit in the petition. Accordingly, the petition stands dismissed.

**In the result,** petition is dismissed. Considering the facts and circumstances of the case there is no order as to costs.

(Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in open court on this the 18<sup>th</sup> day of March 2026.)

**Sd/-  
AMALA LAWRENCE  
RENT CONTROLLER**

**APPENDIX : NIL**

**Id/-  
RENT CONTROLLER**