

IN THE COURT OF THE MUNSIF, KOCHI

Present :-

Smt. Simi P Siju, Additional Munsiff

Tuesday the 28th day of October, 2025/ 6th Karthika, 1947

I A No. 14/2024 in O.S. No. 41/2019

Petitioner/Plaintiff :-

Jessy, D/o.Kakki, aged 66 years, Residing at Ittikunnath House, Elamkunnappuzha P.O, Ernakulam District, Kochi Taluk.

By Advs. Tresa Rani George and Adam Ambrose P

Respondents/Defendants:-

- 1 Rocky, S/o. Late Kakki, aged about 55 years, residing at Pazhekatt House, Edavanakkad P.O, Ernakulam District, Kochi Taluk. (Died)
- 2 Geetha, W/o. Ambi, aged about 58 years, residing at Pazhekatt House, Edavanakkad P.O, Ernakulam District, Kochi Taluk.
- 3 Gracy, D/o. Late Kakki, aged about 67 years, residing at Pazhekatt House, Edavanakkad P.O, Ernakulam District, Kochi Taluk.
- 4 Deena Rocky, aged 50 years, W/o.Late.Rocky, residing at Pazhekatt House, Edavanakkad P.O, Ernakulam District, Kochi Taluk.
- 5 Binil Jacob, aged 22 years, S/o.Late.Rocky, residing at Pazhekatt House, Edavanakkad P.O, Ernakulam District, Kochi Taluk.
- 6 Riona P R, aged 15 years, D/o.Late.Rocky, residing at Pazhekatt

House, Edavanakkad P.O, Ernakulam District, Kochi Taluk.

R1 Died

R2 to 6 By Adv. Dennizon Komath, Rekha V & N J Prince

This petition is come up for hearing before me on 23.10.2025 and the court on 28.10.2025 passed the following:-

ORDER

The petition is for amending the plaint.

2. **Petitioner's contentions to summarize, is as follows:-**

The petitioner is the plaintiff in the above case. The above suit is filed for partition of the petitioner's ancestral properties and for cancellation of documents. It is now learned that one more item of the property which belongs to her late mother by virtue of document No.34/1965 of SRO, Kuzhupilly having an extent of 67.97 cents in Sy.No.1054/1 of Edavakkad village has been omitted to be included in the plaint schedule. So it is highly necessary for the just and proper disposal of the case of the above said property also has to be included in the above case. The above omission happened is not due to the willful negligence or laches or her part. Hence the petition.

3. The respondents/defendants filed counter stating that the petition is not maintainable in law or on facts. The relief sought for is not maintainable and is intended for the purpose of dragging the

trial of the case. The amendment sought for is not deemed just and necessary to determine the real question in controversy. It cannot be believed that the respondent, despite due diligence could not have raised the matter before the commencement of the trial. The attempt is merely experimental and without any bona fides. The claimed item of property having an extent of 67.97 cents in Sy.No.1054/1 of Edavanakkad village, is allegedly owned by the late mother of the parties by virtue of document No.34/1965. These facts were very well within the knowledge of the petitioner/plaintiff. However, the present petition does not disclose any reason for such omission, which renders the entire claim stalled and suspicious. This indicates that petitioner does not have any knowledge related to the intended relief claimed in the suit. Therefore the petitioner does not deserve any liberal attitude of this court. It is not required for the effective and proper adjudication of the controversy between the parties. Allowing the proposed amendment at this stage of the suit will result in undue delay and prejudice to the respondent. This petition is devoid of any merits and the same may be dismissed with costs.

4. Heard both sides.

5. The following point arise for consideration:-

(i) Whether the petition is allowable?

(ii) Relief and Cost ?

6. Heard both sides.

7. **Point No.(i) and (ii):-** The petitioner filed this petition seeking permission to amend the plaint schedule to include an additional item of property having an extent of 67.97 cents in Sy.No.1054/1 of Edavanakkad Village, allegedly belonging to her late mother by virtue of document No.34/1965 of SRO, Kuzhupilly. The petitioner contends that the omission to include the said property in the original plaint schedule was not intentional or due to any willful negligence, but occurred by oversight. The respondent contends that the amendment sought for is intended only to delay the trial of the case, that the plaintiff had knowledge of the said property at the time of filing the suit, and that no sufficient reasons are shown for not including the property earlier. They further contend that allowing the amendment at this stage will cause undue delay and prejudice to the respondents. In the present case, the amendment sought is to include an additional item of property said to belong to the mother of the parties. The proposed amendment, if allowed, will enable the court to adjudicate the entire dispute relating to the family

properties in one proceeding and thus avoid multiplicity of litigation. The omission appears to be inadvertent, and no mala fides can be attributed at this stage. Moreover, no irreparable injury will be caused to the defendants by allowing the amendment, as they will have full opportunity to file an additional written statement and contest the claim on merits.

8. In such circumstances, this Court is of the opinion that the amendment sought for is necessary for the proper and effective adjudication of the dispute.

In the result, Petition is allowed. The petitioner is directed to carry out the amendment within 3 days from the date of this order.

(Dictated to Confidential Assistant, transcribed by her, corrected and pronounced by me in the open court on this the 28th day of October 2025)

Sd/-
Simi P Siju
Additional Munsiff

APPENDIX : NIL

Id/-
Additional Munsiff

//True Copy//

Additional Munsiff

O R D E R

I.A. No.14/2024

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Dated : 28.10.2025