

IN THE COURT OF THE MUNSIF, KOCHI
Present :-

Smt. Simi P Siju, Additional Munsiff

Friday the 11th day of July 2025/ 20th Ashada, 1947

IA No.12/2024 in O.S. No. 97/2020

Petitioner/Plaintiff:-

Madhavarj, S/o.Damodara Pai, resident of CC IV/962, North
Cherlai, Mattancherry Village, Kochi Taluk

By Adv. O J Alfred

Respondents/Defendants :-

- 1 The Secretary, Shri Cochin Vaishnav Mahajan, Shri Navanit Krishna Temple, Palace Road, Kochi-682002
- 2 Corporation of Cochin, by its Secretary, Office of the Corporation of Cochin, Boat Jetty, Ernakulam, Kochi-11
- 3 The Assistant Health Officer, Corporation of Cochin, Zonal Office Mattancherry, Kochi-2

R1 By Adv. Jayasree K P

R2 & R3 No Vakkalath

This petition is come up for hearing before me on 05.07.2025 and the
court on 11.07.2025 passed the following:-

ORDER

The present petition is filed for impleading additional 4th defendant in
the suit.

2. **The petition summary is as follows:-** Petitioner is the plaintiff
in the above suit. The above suit was filed by the plaintiff on 18.03.2020.

The petitioner was compelled to file the suit due to the inhuman, deceitful and greedy attitude of the office bearers of the defendant. Due to the said inhumane attitude of the office bearers of the defendant the plaintiff was compelled to stop his business, his only source of income. Since all the communications are by addressing the secretary, the address of the 1st defendant is shown in the plaint as ‘ the Secretary, Shri Cochin Vaishnav Mahajen’ instead of Shri.Cochin Vaishnav Mahajan represented by Secretary. The defendant’s contention is that the actual defendant is not in the party array. Now the defendant filed a petition to hear the issue of the non-joinder of parties. Therefore the said institution may be impleaded as additional 4th defendant in the party array. If not so done the petitioner will be put to irreparable loss, hardships and in convenience.

3. The 4th respondent filed a counter affidavit stating that the petition was not maintainable either in law or on facts. The petitioner has instituted the suit making false claims and the filing of the suit is an abuse of process of law. The respondent contended that the office bearers of the 1st respondent organization have not shown any inhumane, deceitful, or greedy conduct towards the petitioner, as alleged. There is no truth in these allegations, which are wholly fabricated by the petitioner for the purpose of the suit and the present interlocutory application (IA) alone. The premises were originally let out by Shri Cochin Vaishnav Mahajan for conducting a

jewellery business. However, the petitioner, without obtaining prior consent or permission, unlawfully changed the nature of the business to an ice cream and cool drinks parlour. This unauthorized change amounts to a violation of the tenancy terms, resulting in forfeiture of the lease, thereby making the petitioner liable to vacate the premises. Consequently, the respondent filed Suit as OS.325/2020 before the Munsiff's Court, Kochi, seeking vacant possession, which is currently pending. The suit filed by the petitioner is defective due to non-joinder of necessary parties. The actual owner of the premises is Navaneet Krishna Swami Temple, managed by Shri Cochin Vaishnav Mahajan. The petitioner, despite being aware of this, failed to implead Shri Cochin Vaishnav Mahajan as a party in the suit. This issue was raised by the 1st respondent in the written statement filed in 2021. Despite repeated opportunities, the petitioner deliberately avoided impleading the necessary party. The current application for impleading is a tactic to delay the proceedings. Allowing this application would prejudice the 1st respondent by defeating the defence of non-joinder of necessary parties already taken in the written statement. Hence the petition is liable to be dismissed.

4. The points arise for consideration:-

1. Whether the petition can be allowed?

2. Relief and cost.

5. Heard both sides.

6. Point No.1: The suit was filed by the petitioner on 18.03.2020 for damages and mandatory injunction. The petitioner filed the suit due to the inhuman, deceitful and greedy attitude of the office bearers of the defendant. Due to the inhuman attitude of the office bearers of the defendant the petitioner was compelled to stop his business. The defendant's contention is that the actual defendant is not in the party array. Now the defendant filed a petition to hear the issue of the non-joinder of parties. Therefore they filed the present application to implead the said institution as additional 4th defendant in the suit. The respondent contended that the actual owner of the premises is the Navaneet Krishna Swami Temple, managed by Shri Cochin Vaishnav Mahajan. The petitioner, despite being aware of this, failed to implead the Shri Cochin Vaishnav Mahajan as a party. This issue was raised by the 1st respondent in the written statement filed in 2021. Despite repeated opportunities, the petitioner deliberately avoided impleading the necessary party. The current application filed for impleading is a tactic to delay the proceedings. On a perusal of the application as well as the counter affidavits, it can be seen that all the parties without any doubt averred the same thing that Shri Cochin Vaishnav Mahajan is a necessary party to the suit. Admittedly, there was a delay in filing the application to implead the

forementioned person in the suit. But due to the reason for delay alone, this court cannot dismiss the application, particularly, no prejudice will be caused to the parties. Moreover, such intricacies and technical approach should not be adopted by a court in considering an application for impleading the necessary party. Hence, this court is of the opinion that the impleading petition can be allowed. Accordingly point No.1 is found in favour of the petitioner.

Point. 2 :- As point no. 1 is found in favour of the petitioner, this point is also found in favour of the petitioner.

In the result, Petition is allowed without cost and carryout impleadment in 5 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 11th day of July, 2025).

Sd/-
Simi P Siju
Additional Munsiff

APPENDIX : Nil

Id/-
Additional Munsiff

//True Copy//

Additional Munsiff

O R D E R

I.A. No.12/2024

O.S. No.97/2020

Dated : 11.07.2025