

IN THE COURT OF THE MUNSIFF, KOCHI

Present :-

Smt. Simi P Siju, Additional Munsiff

Thursday, the 19th day of February, 2026/ 30th Magha, 1947.

IA No. 13/2025 in OS. No. 97/2020

Petitioner / Plaintiff:

Madhav Raj, aged 62 years, 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, Cochin-682 002.
2. M/s. Corporation of Cochin, Office of the Corporation of Cochin, Boat Jetty, Ernakulam, Kochi-682 011.
3. The Assistant Health Officer, Corporation of Cochin, Zonal Office, Mattancherry, Kochi-682 002.
4. Shri Cochin Vaishnav Mahajen, Reg No E.R. 204/1977, Shri Navneeth Krishna Temple, represented by its Secretary, Palace Road, Kochi-682 002.

R1 & R4-By Advs. Jayasree K P

R2 & R3- No Vakalath.

This petition filed under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 and come up for hearing before me on 19.01.2026 and the court on 19.02.2026 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 suit. The petitioner have filed an application to implead additional 4th defendant in the party array as IA.12/2025. The said petition stands allowed on 11.08.2025. As the additional defendant is impleaded certain amendments are to be made in the pleadings. For that purpose he filed an application mentioning the necessary changes to be made in the pleadings in the plaint. Hence the petition may be allowed. If not so done, the petition will be put to irreparable loss, hardships and inconvenience.

3. The 1st respondent/1st defendant filed a counter affidavit contending that the suit as well as the interlocutory application are not maintainable either in law or on facts and that the suit has been instituted on false claims, amounting to an abuse of process of court. It is stated that the premises were originally let out by Cochin Vaishnav Mahajan to the petitioner for conducting a jewellery business. However, without obtaining consent or permission, the petitioner allegedly changed the nature of the business and started running an ice cream and cool drinks parlour in the premises. By such

unauthorized change of user, the petitioner incurred forfeiture of tenancy and became liable to vacate the premises. Consequently, O.S. No. 325/2020 was filed before the court at Kochi seeking recovery of vacant possession, and the same is pending.

4. The building is owned by Navaneet Krishna Swami Temple and managed by the said Mahajan. The respondent contends that the present suit suffers from non-joinder of necessary parties, as the Mahajan was not impleaded despite specific objections raised in the written statement filed in 2021. Though aware of this defect, the petitioner deliberately failed to implead the necessary party.

5. When the suit was posted for trial, an application was filed to decide the issue of non-joinder as a preliminary issue. During its pendency, the petitioner filed applications seeking amendment of the cause title and later impleadment of the Mahajan as additional 4th defendant. After the impleadment was allowed, the petitioner filed the present application seeking further amendments introducing time-barred claims against the additional defendant.

6. The respondent contends that the present amendment is not bonafide but an attempt to introduce new, time-barred reliefs,

which would prejudice the defence and divest the respondent of valuable accrued rights. Hence, dismissal with compensatory costs is sought.

7. **The following point arise for consideration:-**

1. Whether the petition is allowable?
2. Relief and Cost ?

8. Heard both sides.

9. **Point No.(i) and (ii):-**The present petition is filed by the plaintiff seeking amendment of the plaint consequent to the impleadment of the additional 4th defendant as per order in I.A. No.12/2025 dated 11.07.2025. The petitioner submits that pursuant to the order allowing impleadment of the additional 4th defendant, certain consequential amendments are necessary in the cause title and body of the plaint. It is contended that the proposed amendments are formal and necessary for effective adjudication of the issues involved in the suit. On the other hand, the 1st respondent/1st defendant contending that the amendment is not maintainable; that the suit suffers from non-joinder of necessary parties; that the proposed amendment seeks to introduce time-barred claims and alter the nature and character of the

suit; and that the amendment would prejudice the accrued rights of the defendants.

10. The point for consideration is whether the proposed amendment is bonafide and necessary for determining the real questions in controversy between the parties. It is settled law that amendments should ordinarily be allowed if they are necessary for proper and effective adjudication of the dispute, provided they do not change the fundamental nature of the suit or introduce a wholly new and time-barred cause of action. The object of Order VI Rule 17 CPC is to avoid multiplicity of proceedings and to enable the court to decide the real controversy between the parties.

11. In the present case, the additional 4th defendant has already been impleaded by order of this Court. Once impleadment has been allowed, consequential amendments in the pleadings become necessary to incorporate appropriate averments and reliefs against the newly added party. The question whether the claims against the additional defendant are barred by limitation or whether they alter the nature of the suit are matters to be considered at the stage of trial. At

this interlocutory stage, the Court need only examine whether the amendment is necessary for effective adjudication.

12. On perusal of the proposed amendment, this Court is satisfied that the amendment is consequential to the impleadment and is required for complete and effective adjudication of the issues involved. The objections raised by the respondents regarding limitation and prejudice are left open to be decided at the appropriate stage. The respondents will have sufficient opportunity to file additional written statement and raise all available contentions. In the above circumstances, this Court finds no reason to reject the amendment. Accordingly point No.1 and 2 are found in favour of the petitioner.

In the result, the petition is allowed. The plaintiff shall carry out the amendment within 7 days from the date of this order and file amended plaint.

(Dictated to Confidential Assistant, transcribed by her, corrected and pronounced by me in the open court on this the 19th day of February 2026)

APPENDIX : Nil

SA

compd by:PS

//True Copy//

Sd/-
Simi P Siju
Additional Munsiff
Id/-
Additional Munsiff

Additional Munsiff

O R D E R
I.A. No.13/2025 in
O.S. No.97/2020
Dated : 19.02.2026

