

IN THE COURT OF THE MUNSIF, KOCHI

Present :-

Smt. Simi P Siju, Additional Munsiff

Friday the 9th day of January, 2026/ 19th Pousha, 1947

IA No. 7/2025 in OS. No. 191/2020

Petitioner/Plaintiff:-

- 1 Jyothibose, S/o.Kochucherukkan, aged 61 years, Sukrutham, N S S Road, Kumbalangi Vazhi, Palluruthy PO, Edakochi Village, Kochi-682006
- 2 Letha, W/o.Jyothibose, aged 55 years, Sukrutham, N S S Road, Kumbalangi Vazhi, Palluruthy PO, Edakochi Village, Kochi-682006
By Adv. A P Juby Raj

Respondents/Defendant:-

- 1 Narayana Pillai @ Suresh, S/o.Krishna Pillai, aged about 69 years, Eravukadu House, N S S Road, Kumbalangi Vazhi, Palluruthy PO, Edakochi Village, Kochi-682006
- 2 Corporation of Kochi, represented by Secretary, Ernakulam, Kochi
By Advs. Jose Tom C Kandathil

This petition come up for hearing before me on 05.01.2026 and the court on 09.01.2026 passed the following:-

ORDER

Petition for direction to produce the document.

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

The petitioner is the 1st plaintiff in the above case. The above suit for permanent prohibitory injunction and mandatory injunction. The suit

was filed in order to stop the illegal construction already one. The specific case of the plaintiff is that the defendant is proceeding with the illegal construction of the building in violation of the building rules. The said illegally constructed structures are specifically stated in detail in the plaint schedule. However the defendant contended in his written statement that he had obtained occupancy certificate. It is pertinent to note here that as per the provisions of building rules, a new building can be constructed after getting approved plan and permit from the concerned local bodies. In the present case the defendant had made the construction of new building. The construction of the said building will become legal only if it is constructed after getting approved plan and permit from the Kochi Corporation. That being so, the approved plan and permit of the building of the defendant is a relevant document as far as the merit of the case is concerned unfortunately, the defendant had not produced the said documents so far. A comparison of the measurements noted by the commissioner in his report with the approved plan and permit will bring out the real facts. Hence the perusal of the approved plan, permit, completion plan and occupancy certificate is highly necessary as far as the merit of this case is concerned. Hence the petition may be allowed.

3. The respondent/defendant filed objection contending that the above petition is not maintainable either upon law or upon facts. The sole intention of the petitioner is to protract the proceedings as he is very well aware that the suit is to be dismissed as non maintainable. The issue of maintainability was raised in the written statement itself as the jurisdiction of civil court is specifically barred u/s 563 of Municipalities Act. Having realized that the suit is to be dismissed the present petition is filed only to have the matter removed from the list and this court may be pleased to appreciate the very fact that the matter is being listed for the 3rd time and each time the petitioner/plaintiff is coming up with different petitions so as to protract the proceedings.

4. Without prejudice to the above contentions it is stated that the building plan and drawings are exclusively private documents and after the approval and issuance of occupancy certificate the authority to access the same is limited by law and policy and to cover up the same the petitioner has come before the court whereas the remedy of the petitioner is elsewhere. Hence the petition may be dismissed as the suit itself is barred by S.509, 544 and S.563 of Kerala Municipalities Act and Rules.

5. Heard both sides.

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

- (i) Whether the petition is allowable?
- (ii) Reliefs and Costs

7. **Point No.(i) and (ii):-** The specific case of the plaintiff is that the defendant is proceeding with the illegal construction of the building in violation of the building rules. The said illegally constructed structures are specifically stated in detail in the plaint schedule. However the defendant contended in his written statement that he had obtained occupancy certificate. According to the petitioner, a comparison of the measurements noted by the Advocate Commissioner with the approved plan and permit is essential for proper adjudication of the dispute. It is also contended that though the defendant claims to have obtained an occupancy certificate, the relevant documents have not been produced so far. The respondent contended that the petition is filed only to protract the proceedings, particularly, when the maintainability of the suit itself is challenged on the ground that the jurisdiction of the civil court is barred under Sections 509, 544 and 563 of the Kerala Municipalities Act. It is further contended that the building plan and drawings are private

documents and access to the same is restricted by law after issuance of occupancy certificate.

8. This court considered the rival submissions made by the parties. The suit is one alleging illegal construction in violation of building rules. The documents sought for by the petitioner are the approved plan, building permit, completion plan and occupancy certificate, which according to him, are relevant documents for deciding the real controversy between the parties. It is pertinent to note that mere contention regarding the bar of jurisdiction under the Municipalities Act cannot, at this stage, be a ground to deny consideration of relevant evidence. Production of such documents will not, by itself, cause any prejudice to the defendant. In such circumstances this court is of the view that the petition deserves to be allowed. Accordingly, point No.(i)and (ii) are found in favour of the petitioner.

In the result, the petition is allowed as follows:-

1. **The respondent/defendant is directed to produce the building plan, building permit, completion plan and**

occupancy certificate relating to the disputed construction, within 3 days from today.

- 2. The petitioner shall pay a cost of Rs.1000/-(Rupees One thousand only) to the respondent.**

(Dictated to Confidential Assistant, transcribed by her, corrected and pronounced by me in the open court on this the 9th day of January 2026)

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

APPENDIX : Nil

**Id/-
Additional Munsiff**

//True Copy//

Additional Munsiff

ORDER
I.A. No.7/2025 in
O.S. No.191/2020
Dated : 09.01.2026