

IN THE COURT OF THE MUNSIFF, KOCHI

Present :-

Smt. Simi P Siju, Additional Munsiff

Wednesday the 21st day of January, 2026/ 1st Magha, 1947

IA No. 1/2025 in OS. No. 258/2025

Petitioner/Plaintiff:

1. Kattachal Shrimp Farmers Society, Reg No. 3152/1992, Elamkunapuzha represented by its President Suneesh, Kattachal Kattachal Shrimp Farmers Society, Reg No.3152/1992, Elamkunnapuzha.
2. Suneesh, aged 42 years, S/o. Sukumaran, Kudilingathara House, President, Kattachal Shrimp Farmers Society, Reg No.3152/1992, Elamkunapuzha.

By Advs. Sandeep V G, Muhammed Ajeesh P B & Athira Uthaman.

Respondent/ Defendant:

Wilson, aged about 63 years, S/o. Devassy, Punnakkalayil, Angamaly P O, Angamaly Village, Aluva Taluk, Ernakulam, Pin-683 572.

No appearance.

This petition come up for hearing before me on 07.01.2026 and the court on 21.01.2026 passed the following:-

ORDER

Petition filed under Order XXXIX Rule 1 of CPC to pass interim injunction order.

2. Petitioner's contentions to summarize, is as follows:- The petitioner is the first plaintiff in a suit filed for prohibitory injunction. The plaintiff is a registered society named Kattachal Shrimp Farmers Society (Reg. No. 3152/1992), formed in 1992 for the joint cultivation of shrimp, paddy, and allied agricultural activities by its member farmers. The society collectively pools the individual landholdings of its members, comprising a total extent of 42.25 acres situated contiguously in various survey subdivisions of Elamkunnappuzha Village, forming a single unified padasekharam. The property, including an outer bund of 3.6 meters width, was obtained under Covenant No. 1075/1961 of SRO, Njarakkal, and is described as the plaint schedule property. The plaint schedule property is bounded by outer bunds on all sides except the western side, with sluices on the eastern and northern bunds controlling water flow. The society undertakes prawn farming by releasing fingerlings in November and harvesting between February and March. The defendant is a member of the plaintiff society.

3. On 17.11.2025, the defendant, along with labourers, trespassed into the plaint schedule property and demolished a portion

of the eastern outer bund using a JCB without permission, resulting in prawns escaping into the kayal and causing a loss of approximately Rs. 5,00,000/-. The defendant also erected coconut wooden posts along the eastern boundary and into the kayal, allegedly in the name of another member, Jamal, without consent. When objected to, the defendant claimed a right to widen the outer bund for personal use. Following intervention by the society's office bearers, the defendant temporarily restored the bund but failed to remove the posts. Despite complaints to the police and the Grama Panchayath, no action was taken. On 24.11.2025, the defendant again attempted to widen the outer bund by scooping mud from the backwaters, damaging the foundation of the granite bund constructed in 1962. The plaintiff apprehends continued illegal interference, which threatens its agricultural operations and would cause irreparable loss unless the defendant is restrained. Hence the petition.

4. The respondent/defendant filed a counter affidavit contending that both the suit and the interlocutory application are not maintainable either in law or on facts. According to the respondent, the statements made in the affidavit supporting the injunction application are false, and the plaintiff society has no cause of action against him. It

is asserted that the plaintiff has no right to seek a decree of permanent prohibitory injunction against the true owner of the property, and that the suit is defective since the property over which injunction is sought has not been separately and clearly scheduled in the plaint.

5. The respondent further contends that the plaintiff society has failed to establish its locus standi and the authority of its office bearers to represent the society in litigation. The plaint schedule property allegedly measuring 42.25 acres is stated to be vague, unidentifiable, and not demarcated by outer bunds as claimed. The respondent denies being a member of the plaintiff society and asserts that his property does not form part of any land used by the society for shrimp farming. As per Document No. 3780/2003 of SRO, Njarakkal, the respondent and a co-owner purchased 45.16 ares of land in Survey Nos. 46 and 47 (Re-survey No. 230/11) of Elamkunnappuzha Village. The respondent asserts that neither he nor the co-owner applied for membership in the plaintiff society nor surrendered their land for joint farming. The respondent's property is said to have well-defined bunds on all sides, over which the plaintiff society has no rights.

6. The respondent alleges that the plaintiff society illegally raised water levels in adjoining lands, causing inundation and nuisance to his property. To prevent further damage, the respondent attempted to raise the height of bunds on the northern and western boundaries of his own land, which the plaintiffs allegedly obstructed. The respondent denies demolishing any boundary or encroaching upon others' property, asserting that erecting wooden poles and strengthening bunds are lawful acts of ownership. The respondent also challenges the complaints made to the police and Panchayath as incompetent. He denies any attempt to reclaim backwaters and maintains that his actions were solely to prevent the entry of water to their land due to the illegal activities of the plaintiff. The respondent contends that the plaintiff has failed to establish a prima facie case and that the injunction application deserves dismissal with costs.

7. Points arise for consideration:-

1. Whether the petitioner has made out a prima facie case?
2. Whether the balance of convenience is in favour of the petitioner?

3. Whether the petitioner will suffer irreparable injury, if the temporary injunction is not granted?

4. Whether the petitioner is entitled for a temporary prohibitory injunction as prayed for?

5. Reliefs and costs.

8. Heard the learned counsel for the petitioner/plaintiff.

9. **Point No.1 to 5** :-The specific case of the petitioner is that the defendant, who is a member of the society, trespassed into the plaint schedule property on 17.11.2025 with labourers and machinery, demolished a portion of the eastern outer bund, and attempted to widen the bund by reclaiming portions of the adjoining kayal, resulting in escape of prawns and causing substantial loss to the society. It is further alleged that despite intervention by the office bearers, the defendant continues to assert a right to alter the bund and has erected wooden posts within the plaint schedule property and kayal area. The plaintiff apprehends repetition of such acts, causing irreparable damage to the agricultural activities carried on by the society. On the other hand, the defendant filed counter denying the allegations and contending that the suit and the application are not maintainable.

10. According to the defendant, he is not a member of the plaintiff society and the property owned jointly by him under document No.3780/2003 of SRO, Njarakkal does not form part of the plaint schedule property. It is contended that the plaintiff has no right over the defendant's property or its bunds, that the plaint schedule property is not properly identified or demarcated, and that the defendant has only attempted to raise the height of bunds on his own land to prevent inundation caused by the plaintiff's activities. It is also contended that no prima facie case is made out for grant of injunction.

11. This court considered the rival submissions made by the parties. On a perusal of the pleadings and materials placed, it is evident that the plaintiff claims long-standing possession and collective cultivation of the padasekharam through its members and asserts control over the outer bunds which regulate water entry and exit for agricultural purposes. The allegations regarding repeated attempts by the defendant to alter the bund using heavy machinery, if allowed to continue, may materially affect the integrity of the bund and the agricultural operations carried out by the plaintiff society. The defendant, on the other hand, asserts ownership over a specific parcel of land and claims that his actions are confined to his own property.

These rival contentions regarding identity, boundaries, and extent of properties clearly involve disputed questions of fact which cannot be conclusively decided at this interlocutory stage. However, it is significant to note that alteration of outer bunds and reclamation of backwater areas are acts which, if permitted pending trial, may result in irreversible changes to the property and the ecological and agricultural balance of the area. Any damage to the bund structure may not be capable of being adequately compensated in terms of money.

12. The pleadings and materials on record continue to disclose that the plaintiff society is in possession of the plaint schedule property and is carrying on agricultural activities therein. The apprehension of interference by the defendant is real and substantiated. The disputed questions regarding title, identity, and boundary of the properties require evidence and can be decided only at the time of trial. At this stage, preservation of the property in its existing condition is necessary to prevent irreparable injury. The balance of convenience continues to lie in favour of the plaintiff. No prejudice will be caused to the defendant by maintaining the injunction, whereas refusal to do so would result in irreparable loss to the plaintiff.

In the above circumstances, this Court finds no reason to vacate or modify the interim order already passed. Accordingly point No.1 to 5 are found in favour of the petitioner.

In the result, the application is allowed. The temporary injunction granted earlier is made absolute and shall remain in force till the disposal of the suit.

Dictated to the Confdl.Asst; transcribed and typed by her corrected and pronounced by me in the open court on this the 21st day of January 2026).

Sd/-
Simi P Siju
Additional Munsiff

APPENDIX : Nil

Id/-
Additional Munsiff

//True Copy//

Additional Munsiff

SA
compd by

ORDER
I.A. No.1/2025 in
O.S. No.258/2025
Dated : 21.01.2026