

IN THE COURT OF THE MUNSIF, KOCHI

Present :-

Smt. Simi P Siju, Additional Munsiff

Tuesday the 7th day of October 2025/ 15th Aswina, 1947

I A No. 7/2024 in O.S. No. 352/2019

Petitioners :-

- 1 Kishore, aged 48 years, S/o.Rajan, Valavath House, Nayarambalam Kara, Nayaramabalam Village, Kochi Taluk (Died)
- 2 Bindhu Kishore, W/o.Kishore, aged 40 years, Valavath House, Nayarambalam Kara, Nayaramabalam Village, Kochi Taluk
- 3 Malavika Kishore, D/o.Kishore, aged 16 years, Valavath House, Nayarambalam Kara, Nayaramabalam Village, Kochi Taluk
- 4 Manav Kishore, S/o.Kishore, aged 10 years, Valavath House, Nayarambalam Kara, Nayaramabalam Village, Kochi Taluk

P1 Died

P2 to P4 By Advs. N S Ajay, Babukuttan K C & Devadas P L

Respondents/Defendants:-

- 1 Sree Subramanya Samithi, SSV Sabha Office Complex, Kochambalam, Nayarambalam PO, Pin-682509
- 2 Joshi, Chairman, aged 57 years, S/o,Prabhakaran, Kattiparambil House, represented by Sree Subramanya Samithi, Kochi Taluk, Nayarambalam Village, Nayaramabalm Kara, (Jai Hind Road), Nayarambalam PO, Pin-682509.
- 3 P A Viswanathan, Secretary, represented by Sree Subramanya Samithi S/o. Aandi, Polakulath House, Nayaramabalam Village, Kochi Taluk, Pin-682509
- 4 K G Sanjayan, Member, represented by Sree Subramanya Samith, S/o.Gangadharan, Kattoor House, Nayaramabalam Village, Kochi Taluk, Pin-682509
- 5 P K Parameswaran, Member, represented by Sree Subramanya Samith, S/o.Kunjan, Palaparambil House, Nayaramabalam Village, Kochi Taluk, Pin-682509

- 6 V P Gopalakrishnan, Member, represented by Sree Subramanya Samith, S/o.Prabhakaran, Vellassery House, Nayaramabalam Village, Kochi Taluk, Pin-682509
- 7 N K Giri, S/o.Karunakaran, Naranatt House, Kochi Taluk, Nayarambalam Village, Pin-682509
- 8 C N Viswambaran, S/o.Narayanan, Cherupulli House, Kochi Taluk, Nayarambalam Village, Pin-682509
- 9 M S Jayan, S/o.Sreedharan, Maliyekkatt House, Palace Road, Near Kannankulangara Temple, Paravur Taluk, Paravur Village, Pin-683513
- 10 Ramesan, S/o.Bhaskaran, Naranattu veedu, Edavanakkadu village, Kochi Taluk
- 11 D Rajagopal, Komath House, Kochi Taluk, Nayarambalam Village, Nedungad
- 12 K A Sathyan, Kannangatt House, Njarakkal Village, Kochi Taluk
- 13 K B Venu, S/o.Bahuleyan, Kanneth House, Kochi Taluk, Nayarambalam Village-682509
- 14 P V Romy, S/o.Viswambaran, Panakkaparambil House, Nayarambalam Village, Kochi Taluk-682509
- 15 T G Rajeev, S/o.Gopalan, Thaikootathil House, Pallippuram Village, Kochi Taluk, Cherai PO
- 16 Vijaya Rajeev, W/o.Rajeev, Thaikootathil House, Pallippuram Village, Kochi Taluk, Cherai PO
- 17 M V Vijaya, D/o.Viswanathan, Manattuparambil House, Kochi Taluk, Nayarambalam Village, Kochi Taluk
- 18 K P Raju, S/o.Purushan, Kollezhatu House, Nayarambalam Village, Kochi Taluk
- 19 K K Murali, S/o.Kesavan, Kizhakkevelikkakath House, Mills Road, Paravur Taluk, Paravur Village-683513
- 20 M R Sudhakaran, S/o.Raghavan, Manattuparambil House, Nayarambalam village, Kochi Taluk
- 21 M R Surendran, S/o.Raghavan, Manattuparambil House, Nayarambalam village, Kochi Taluk
- 22 P K Jaleesh, Pallathuparambu House, Nayarambalam Village, Kochi Taluk
- 23 K K Supran, Kattil House, Nayarambalam Village, Kochi Taluk

- 24 Ammukutty Thulasidas, Cherupulli House, Elamkunnapuzha Village, Kochi Taluk
- 25 P K Viswanathan, S/o.Krishnan, Panikkasseril House, Nayarambalam Village, Kochi Taluk
- 26 M S Rajeev, S/o.Subayan, Meppadath House, Nayarambalam Village, Kochi Taluk
- 27 M V Shaji, S/o.Viswambaran, Meppadath House, Nayarambalam Village, Kochi Taluk
- 28 M V Vijith, S/o.Viswambaran, Meppadath House, Nayarambalam Village, Kochi Taluk
- 29 M V Vinod, S/o.Viswambaran, Meppadath House, Nayarambalam Village, Kochi Taluk
- 30 K S Ramachandran, S/o. Sreedharan, Kalathil House, Nayarambalam Village, Kochi Taluk
- 31 K N Bahuleyan, S/o.Narayanan, Kaithavalappil House, Nayarambalam Village, Kochi Taluk
- 32 P K Sudhakaran, S/o.Kumaran, Panakkaparambil House, Nayarambalam Village, Kochi Taluk
- 33 P S Aneeshkumar, S/o.Sudhakaran, Panakkaparambil House, Nayarambalam Village, Kochi Taluk
- 34 P S Vibin Karthik, S/o.Sudhakaran, Panakkaparambil House, Nayarambalam Village, Kochi Taluk
- 35 K K Ravi, S/o.Kunjankutty, Kattiparambil House, Nayarambalam Village, Kochi Taluk
- 36 K K Sreedharan, Kattiparambil House, Nayarambalam Village, Kochi Taluk
- 37 N B Hari, S/o.Bhaskaran, Naranatt House, Nayarambalam Village, Kochi Taluk
- 38 P V Roy, S/o.Viswambaran, Panakkaparambil House, Nayarambalam Village, Kochi Taluk
- 39 P N Krishnankutty, S/o.Naryanan,Pallathupady House, Nayarambalam Village, Kochi Taluk
- 40 P K Shibu, S/o.Krishnankutty, Pallathupady House, Nayarambalam Village, Kochi Taluk
- 41 P K Thilakan, Puthenpurackal House, Nayarambalam Village, Kochi Taluk

- 42 K N Shadanandan, S/o.Narayanan, Kaithavalappil House, Nayarambalam Village, Kochi Taluk
- 43 K K Krishnankutty, S/o.Kunjankutty, Kattiparambil House, Nayarambalam Village, Kochi Taluk
- 44 K P Nidheesh, S/o.Purushothaman,Kattiparambil Hosue, Thammanam, Palarivattom
- 45 K K Gangadharan, S/o.Kunjankutty, Kattiparambil House, Aiswarya, Janatha, Palarivattom
- 46 K K Prabhakaran, S/o.Krishnan, Kattiparambil, Nayarambalam Village, Kochi Taluk
- 47 K I Vijayan, S/o.Ittaman, Kaithavalappil House, Nayarambalam Village, Kochi Taluk
- 48 Ambadi, S/o.Uthaman, Kakkanattu House, Nayarambalam Village, Kochi Taluk
- 49 P K Ratnakumar, S/o.Karunakaran, Paruthiyezhathu House, Nayarambalam Village, Kochi Taluk
- 50 P C Raghavan, S/o.Chennan, Pallathupady House, Nayarambalam Village, Kochi Taluk
- 51 Purushothaman, aged 74 years, S/o.Kochappu, Kattiparambil House, Nayarambalam Village, Kochi Taluk
- 52 P R Biju, S/o.Raghavan, Podashani House, Nayarambalam Village, Kochi Taluk
- 53 Sunitha A P, W/o.K P Joshi, Kattiparambil House, Nayarambalam Village, Kochi Taluk
- 54 P R Bahuleyan, Pallathupady House, Nayarambalam Village, Kochi Taluk
- 55 Aadhi Lakshmi, W/o.Narayanan, Kollezhatu House, Near Nandikulangara, Kottuvally Village, Paravur Taluk
- 56 E N Jibin, S/o.Natarajan, Erumassery House, Edappally, Ernakulam

R2 By Adv. C P Saji

R53 By Advs. Suma Ratheesh, Midhun Raj P R,
Aravind Ajith & Mathew Varghese

R4, R8 to R16, R18, R20 to R26,
R30 to R37, R39 to R43, R45, R47 to R50,
R52 By Adv. K S Bharathan

R5 By Adv. A T Anilkumar
R27 to R29 By Adv. K R Vinod
R19 By Adv. V A Pradeepkumar
R1, R3, R7, R17, R38, R44, R46, R51,R53, R54, R56
No Vakalath

This petition is come up for hearing before me on 30.09.2025 and the court on 07.10.2025 passed the following:-

ORDER

Petition filed by the 2nd plaintiff in the above suit under Order XXXIII Rule 1 and 3 of CPC to allow the petitioners/plaintiffs to proceed with the above suit as indigent persons.

2 . **The petition summary is as follows:** The petitioner is the second plaintiff in the above case and the wife of the original plaintiff, late Sri Kishore. She files this petition on her own behalf as well as on behalf of the other plaintiffs. The case is currently posted for payment of the balance court fee. The sole breadwinner of the family, Sri Kishore, passed away on 27.04.2020 while abroad, due to the Covid-19 pandemic. Since his death, the petitioner has been unemployed and has no source of income. The petitioner is the sole caretaker of her aged mother and two children Malavika Kishore and Manav Kishore who are the third and fourth plaintiffs in the suit and are both students. The family has been entirely dependent on the income previously earned by the deceased plaintiff. The

petitioner had believed that the balance court fee had already been paid, but was recently informed by her counsel that the same is still outstanding. Due to the ill health of her mother, who has been bedridden for the past three months, and ongoing expenses for medical treatment, education, and daily living costs, the petitioner is under severe financial hardship. She is presently unable to pay the balance court fee of Rs. 39,500/- and the legal beneficiary fund of Rs. 4,050/-.

Statement of Assets:

The petitioner does not possess any significant movable or immovable property except the following items:

Sari, Churidhar	10 sets	15,000/-
undergarments	5 sets	1,000/-

The Village Officer of Nayarambalam has certified that the petitioner has no means to pay the balance court fee. Hence, the petitioner has filed this petition to have herself declared as indigent and to be permitted to continue the proceedings without payment of the remaining court fee and legal beneficiary fund. If this petition is not allowed, the petitioner and her dependents will suffer irreparable hardship and injustice.

3. The respondents did not file a counter but objected to the petition, stating that the petitioner has sufficient means to pay the balance court fee. The petitioner was also cross examined by the respondents.

4. The following points arise for consideration

(i) Whether the petition is allowable?

(ii) Reliefs and Costs?

5. Heard both sides.

6. The petitioner was examined as PW1 and no documents were marked. Respondents adduced no evidence.

7. **Point No.1 and 2:-** The petitioner, examined as PW1, stated that the suit was filed for recovery of money. She submitted that she has no independent source of income and no means of employment to earn money for paying the balance court fee. She owns no property in her name, except for approximately 10 sets of clothing (churidar, sarees) valued at ₹15,000. The petitioner further stated that her husband owns 3 cents of land and a 450 square feet house located in Nayarambalam Village. The said property is mortgaged with the Federal Bank. The petitioner holds a bank account (Account No. 10200100194673) at Federal Bank, Nayarambalam Branch, with a

current balance of ₹1,389. Additionally, a report from the Tahsildar, Kochi, has been received, which states that:

(1) Smt. Bindu Kishore, W/o Kishore, Valavath House, (2) Malavika Kishore, D/o Kishore, Valavath House, and (3) Manav Kishore, S/o Kishore, Valavath House jointly own 01.28 Ares of land in Block No. 6, Re-survey No. 121/7-3, situated in Nayarambalam Village, Kochi Taluk.

In *Kuriakose P.K v Asgar Shakoor Patel and other* (2018 (2) KHC 473, 2018 (2) KLJ 387) the Hon'ble High Court of Kerala held that *"13....There may be cases where a plaintiff may pay one tenth of the court fee at the time of presentation of the plaint and may, quite honestly, hope to pay the balance court fee within time. Such a belief of the plaintiff would not bind him forever, precluding him from getting the benefit of the benevolent provisions of O.33 of the Code. Later, he may not have sufficient means to pay the court fee. It can happen due to various reasons. In such cases, law would and should come to his rescue and grant leave to continue the suit as an indigent person insofar the balance court fee is concerned. In such cases, the fiction by which the date of institution of the suit is related back to the date of application for leave to sue as an indigent person, would not deprive the plaintiff*

of the right to avail the benefit of O.33 of the Code. The honest belief of the plaintiff, at the time of institution of the suit, that he would be able to pay court fee at a later point of time, would not debar him from claiming the benefit of O.33 of the Code, if subsequently it is found that he is unable to pay the balance court fee.”

8. Thus considering the above facts and circumstances of the present case in the light of the decision cited supra, this court is of the view that the petitioners are entitled to get permission to sue as an indigent person. Accordingly, these points are found in favour of the petitioner.

In the result, the petition is allowed, the petitioner is permitted to proceed with the suit as an indigent person. No order as to costs.

Dictated to the Confdl.Asst; transcribed and typed by her, corrected and pronounced by me in open Court on this the 07th day of October 2025.

Sd/-
Simi P Siju
Additional Munsiff

APPENDIX :

Petitioner’s Exhibits:- Nil

Respondent’s Exhibits:- Nil

Court's Exhibits:- Nil

Petitioner's Witness:-

PW1 16.07.2025 Bindhu Kishore

Respondent's Witness:- Nil

Court's Witness:- Nil

Witness Exhibits Nil

Id/-
Additional Munsiff

//True Copy//

Additional Munsiff

SS
compd by: RO

O R D E R

I.A. No.7/2024

O.S. No.352/2019

Dated : 07.10.2025