

**IN THE COURT OF PRINCIPAL SUB JUDGE, NORTH PARAVUR**

Present:- Smt. Wincy Ann Peter Joseph, Principal Sub Judge

Thursday the 04<sup>th</sup> day of December, 2025/13<sup>th</sup> Agrahayana, 1947

**I.A. No.1/2025 in O.S. No.67/2025**

**Petitioner/Plaintiff:-**

Malankara Marthoma Syrian Church represented by Sabha Secretary and Chief Executive Officer Rev. Father Abey T. Mammen, aged 60 years, Pulatheen, Thiruvalla, Pin – 689 101.

By Adv. Jacob George

**Respondent/Defendant:-**

Aluva Settlement, Veliyathunadu Kara, Aluva West Village, Aluva, Pin – 683 102, represented by Manager

By Adv. Jeemon K. Abraham

This petition filed Order XXXIX Rule 1 of the Code of Civil Procedure, to injunction petition.

This petition having been finally heard on 04.12.2025 and the court on same day passed the following:-

**ORDER**

This petition is filed by petitioner / plaintiff for Temporary Injunction.

(2) The averment of the petitioner, in brief, is as follows :-  
According to the petitioner / plaintiff, the suit is for determining the

boundary and carry out Injunction. The plaintiff is the owner of plaint A schedule property situated in Aluva West Village. The western boundary of this property, which also marks the boundary between Aluva West and Karumaloor Villages, has been deliberately tampered with by the defendant institution. On 28.04.2025, the defendant, through its employees, unlawfully removed boundary stones and encroached upon approximately 4 cents of the plaintiff's land, which is described as plaint C schedule property. When the plaintiff's representative, Shri K.S. Dominic, objected the defendant's Manager, Shri Elias, issued threats and attempted to assert ownership over the encroached land, with intentions to sell it through false documentation. The defendant has no authority to enter or deal with the plaintiff's property. The plaintiff is entitled to have the boundary between the two villages surveyed and fixed with the help of the Taluk Surveyor. Upon such demarcation, the encroached portion (plaint C Schedule property) will be shown to form part of the plaintiff's property (plaint A Schedule property), and the plaintiff is entitled to recovery. Hence, this petition.

(3) In reply to the aforesaid contentions, the respondent / defendant has filed counter affidavit as follows : It is contended by the respondent that the suit and the injunction petition are liable to be rejected at the

threshold under Order VII Rule 11(d) of Code of Civil Procedure, as the plaintiff discloses a statutory bar under Section 430 of the Companies Act, 2013. The respondent is a Company functioning under Section 25B of the Companies Act, 1956, and Civil Courts are expressly barred from entertaining suits in respect of matters falling within the jurisdiction of the Company Law Tribunal or Appellate Authority. The deponent Fr. Abey T. Mammen lacks locus standi to represent the petitioner in the absence of any valid document proving his authority as Sabha Secretary or Chief Executive Officer. The petitioner has not established ownership or possession over the plaintiff A Schedule property. No Title Deed or document evidencing ownership has been produced. The claim that the property was entrusted to Christian Children's Fund is baseless, and there is no pleading regarding any legal relationship between the petitioner and CCF. The injunction appears to be a mala fide attempt to obstruct eviction proceedings against K.S. Dominic (EP No. 259/2011 in RCP No. 33/2010 before Munsiff Court, Paravur). No power of attorney or authorization appointing him as caretaker is on record. K.S. Dominic, who has filed various rent control proceedings as a tenant, is not even a party to the suit, suggesting misuse of process. K.S. Dominic's consistent stand in prior proceedings is that he is a tenant in Building No. 14/163, not a caretaker of the plaintiff A Schedule property. The present

averments are fabricated to forestall eviction and mislead the Court. The Managing Council of the respondent is lawfully constituted per the Articles of Association. As for plaint B Schedule property, the order of the Land Board is stayed by the Hon'ble High Court in CRP (LR) No. 336/2013. The respondent is the absolute owner of plaint A and B Schedule properties, which are lying as single block. The exparte temporary injunction granted by the Vacation Court may also be set aside. Hence, the petition is only to be dismissed.

(4) Points for consideration :

(1) Whether the petitioner has proved prima facie case in their favour?

(2) Whether any irreparable loss or injury will cause to the petitioner, if this petition is not allowed?

(3) Whether the petitioner has proved balance of convenience in their favour?

(4) Reliefs and Costs?

(5) On the side of petitioner / plaintiff, Exts. A1 to A6 and Ext.C1 were marked. On the side of respondent, Exts. B1 to B7 were marked.

(6) Heard both sides.

(7) **Point No.1** : - The Head Office of petitioner Church is at Thiruvalla and the affidavit is filed by the Secretary and Chief Executive Officer. According to the petitioner, they are the owner of plaint A schedule property comprised in Survey No. 152/3 in Block No. 37 of Aluva West Village, having an extent of 06 Hectors 85 Ares 60 Square meters of properties. The said property is in the name of Christian Children's Fund, an association under the petitioner Church. There are rubber plantation and pineapple cultivation in the plaint A schedule property and there exists a residential building bearing No. XIV/164 of Karumaloor Grama Panchayath, wherein the Power of Attorney Holder of the Church Shri K.S. Dominic is residing along with his family with the permission of the Church. He is the person who is taking income from 03 Acres of land annexed thereto. The petitioner Church and the Christian Children's Fund alone are having right over the plaint schedule properties. On the western side of plaint schedule property, a charitable company named Aluva Settlement is functioning and as per their Articles of Association, in addition to the petitioner Church, CSI Church and Malankara Syrian Church are having right over the same. Now, the respondent charitable company is not managed by the representatives of those three Churches. On the other hand, some persons claiming to be the nominees of those Churches, has now formed as a Committee and

administering the same. The respondent Company is having 69.85 Ares of plaint B schedule property comprised in Survey Nos. 16/1-1, 41/3, 41/8, 41/11B, 42/5A, 42/5B, 43/6B, 43/6C, 58/1E, 59/1A, 59/1B, 59/2, 59/3, 59/4, 59/7A, 59/7B, 59/7C, 59/8, 59/8B of Karumaloor Village. With respect to the plaint B schedule property, the Land Board, Paravur Taluk, initiated SM Proceedings against which the respondent has approached the Hon'ble High Court.

(8) The respondent institution has destroyed the western boundary of the plaint A schedule property, the western boundary of Aluva West Village and the common boundary on the eastern side of plaint B schedule property, and the boundary between the Aluva West Village and Karumaloor Village with ulterior motives. As of now, the boundary between the petitioner Church and the respondent Company is lost / destroyed. The employees of the respondent has destroyed the boundary and encroached 04 Cents i.e., plaint C schedule property on 28.04.2025. When Shri K.S. Dominic has questioned the same, the Manager of the respondent institution has threatened him by declaring that he will sell the property of the petitioner Church by encroaching in it. The respondent institution does not have a right over the plaint B schedule property and to create any document with respect to the same. Therefore, it is very essential to fix the boundary

of the plaint A schedule property and of the respondent's property and also to recover possession of the plaint C schedule property from the illegal possession of the respondent.

(9) In reply to the aforesaid contentions raised by the petitioner, the Manager of the respondent, the Aluva Settlement has filed counter affidavit by denying all the averments made in the affidavit in support of Temporary Injunction Application.

(10) The first contention raised by the respondent is that the petition itself is not maintainable either in law or facts. Therefore, the petition is liable to be rejected as the suit appears from the statement in the plaint itself that it is barred by Section 430 of the Companies Act, 2013, since the respondent is a Company functioning under Section 25B of the Companies Act, 1956. The same is admitted by the petitioner in the petition and in the suit. As per Section 430 of the Companies Act, 2013, there is specific bar for Civil Courts to exercise jurisdiction to entertain any suit or proceedings in respect of any acts which the Company Tribunal or Appellate Authority is empowered to determine by or under the Companies Act or any other laws in force and no injunction shall be granted by any Court or Authority in respect of any action taken in pursuance of any other law in force by the Company or Appellate Authority. Hence, the prayer of the

respondent is to be dismissed in limine this petition by invoking Section 430 of the Companies Act, 2013.

(11) Another contention raised by the respondent is that Fr. Abey T. Mammen has no locus standi to file the Temporary Injunction Application for and on behalf of the petitioner in the absence of any credentials to show that he is the Sabha Secretary and Chief Executive Officer of the petitioner Church.

(12) According to the respondent, at any point of time, the petitioner was having ownership and possession over the plaint A schedule property. Christian Children's Fund has also having no right over the said property. These facts is evident from the non mentioning of the Title Deed in the plaint and the affidavit. The averment of the petitioner that they had entrusted the plaint A schedule property with Christian Children's Fund Association is baseless.

(13) The intention of the petitioner in filing this petition is only to obstruct eviction of Shri K.S. Dominic, the Power of Attorney Holder of the petitioner. As per the eviction order passed by the Munsiff Court, North Paravur in E.P. No. 259/2011 in R.C.P. No. 33/2010. It is pertinent to note that the petitioner has failed to produce any such Power of Attorney in favour of Shri K.S. Dominic, as averred. The specific contention of the

respondent is that Shri Dominic has never acted as the care taker of the plaint schedule property as averred by the petitioners. Many Rent Control Proceedings were filed by Shri Dominic against the respondent, but in none of the proceedings, he had a case that he is the care taker of the plaint A schedule property and that he is residing in the building situated therein. On the contrary, his contention was that he is a tenant in building No. XIV/163 of Karumaloor Grama Panchayath, which was taken on lease from the respondent. Even though, it was claimed by the petitioner was that Shri Dominic is the care taker of plaint A schedule property and the Power of Attorney Holder of the petitioner, he was not made a party in the suit.

(14) According to the respondents, the Managing Council of the respondent is constituted as per the Articles of Association of the respondent. It is not correct to state that the Council does not contain the representative of the petitioner. The respondent has never tried to encroach into the plaint A schedule property as they have ownership possession and enjoyment over entire extent of plaint A and B schedule properties. The respondent has mortgaged the plaint A schedule property to Christian Children's Fund Association as per Mortgage Deed No. 197/1955 of Paravur SRO for the purpose of doing child welfare services. The said association has wound up it's service in the property in the year 1973 and redeemed the

mortgage created over the said property, by executing Release and Reconveyance Deed No. 691/1973 dated 12.04.1973 of North Paravur SRO in favour of the respondent. Now, the property has been transformed to a Rubber Plantation wherein Pineapple is also cultivated. As of now, the respondent is remitting land tax with respect to plaint A schedule property.

(15) The incident alleged by the petitioners, on 28.04.2025 was not happened and no Police complaint filed by them. It is specifically averred by the respondents that they are law abiding charitable company for the upliftment of the poor and marginalized people in the society. The petitioner has failed to prove their title and possession over the plaint A schedule property, is not entitled to get an order of injunction against the respondent, who is the true owner of the plaint A schedule property. According to the respondent, the plaint A and B schedule properties are lying as a single block under the ownership of the respondent.

(16) Now the first question to be considered is whether the petitioner / plaintiff has proved prima facie case in their support? The specific case of the petitioner is that the respondent herein has destroyed the boundary between plaint A and B schedule properties and removed the stones separating these properties. The said act was alleged to have been committed by the respondent and his staff on 28.04.2025 and encroached

into 04 Cents of plaint A schedule property. The said portion is described as plaint C schedule property in this case. In order to ascertain the said encroachment and description of boundary separating plaint A and B schedule properties, the petitioner herein had taken out a commission. When the Advocate Commissioner visited the property on 16.05.2025 and filed Ext.C1 Commission Report before the Court. The third question to be ascertained by the Advocate Commissioner is that ‘അന്യായം A, B പട്ടിക വഹകൾ തമ്മിൽ വേർതിരിക്കുന്ന അതിർത്തി വേലി പ്രതി വെട്ടി നശിപ്പിച്ച് കൈയേറിയിട്ടുണ്ടോയെന്ന് തിട്ടപ്പെടുത്തി റിപ്പോർട്ട് ചെയ്യണം.’ After the inspection of plaint A, B and C properties by the Advocate Commissioner, the Advocate Commissioner has filed Ext.C1 Commission Report by stating that ‘അന്യായം A, B പട്ടിക വഹകൾ തമ്മിൽ വേർതിരിക്കുന്ന അതിർത്തി വേലി പരിശോധന സമയത്ത് കണ്ടില്ല. അന്യായം C പട്ടികയായി Mr. Dominic കാണിച്ചു തന്ന സ്ഥലം ചെറിയ ചെറിയ മരങ്ങൾ വെട്ടിയിരിക്കുന്നതും അവിടെ കുറേ മരങ്ങളുടെ ഇലകൾ , കൊമ്പുകൾ എന്നിവ വെട്ടിയിട്ടിട്ട് ഉണങ്ങി കിടക്കുന്നതായ സ്ഥലമാണ്.’ On perusal of the sketch appended to the Commission Report, it is seen that plaint C schedule property is situated on the northern side of the plaint A schedule property beyond a 3 meter way therein. With respect to plaint B schedule property, the Advocate Commissioner reported that ‘ അന്യായം B പട്ടിക വഹകൾ അന്യായ പ്രകാരം 69.85 Acres ആണ്. എന്നാൽ പരിശോധന സമയത്ത് Mr. Dominic കാണിച്ചു തന്നത് അന്യായം A പട്ടിക വസ്തുവിന്റെ പടിഞ്ഞാറും ജനസേവ ശിശുഭവൻ ബിൽഡിംഗിന്റെ

തെക്കുവശത്തുമായി കിടക്കുന്ന സ്ഥലമാണ്. മേപ്പടി സ്ഥലത്തിന്റെ കിഴക്കുവശത്തായി ഒരു 3 മീറ്റർ വഴിയുണ്ട് ... മേപ്പടി വഴിയുടെ തെക്ക് ഭാഗത്ത് അന്യായം A പട്ടിക വഹയുടെ ഭാഗവും വടക്കു വശത്ത് അന്യായം C പട്ടിക വഹയുടെ ഭാഗവുമായാണ് ടിയാൾ കാണിച്ചു തന്നത് . അന്യായം B പട്ടികയുടെ ബാക്കി സ്ഥലങ്ങൾ വേറെ മാറിയാണ് സ്ഥിതി ചെയ്യുന്നതെന്നും അതിന് A പട്ടികയുമായി യാതൊരു അതിർത്തിയുമില്ലാത്തതിനാൽ ...' This is the report filed by the Advocate Commissioner with respect to the plaint A, B and C schedule properties. On perusal of the sketch attached to Ext.C1 Commission Report, it can be seen that the plaint A schedule property is situated on the northern side of Aluva Paravur Road and on the western side of the plaint A schedule property, there situates the plaint B schedule property. The Advocate Commissioner has shown the plaint C schedule property on the northern side of the plaint A schedule property and the 3 meter wide road. Therefore, from the sketch attached to the Commission Report, it cannot be concluded that the respondent has encroached into the plaint A schedule property by destroying the common boundary of the plaint A and B schedule properties and taken possession of 4 Cents of property from the plaint A schedule property as alleged by the petitioners. Further, it is categorically reported by the Advocate Commissioner that she has not seen any boundary fencing separating the plaint A and B schedule properties. It is not reported anywhere in Ext.C1 Commission Report with

respect to the contention of the petitioner in this petition that ‘ഇപ്രകാരമിരിക്കെ പ്രതി സ്ഥാപനം വാദി സഭയുടെ അന്യായപട്ടികയുടെ പടിഞ്ഞാറേ അതിരും, ആലുവ വെസ്റ്റ് വില്ലേജിന്റെ പടിഞ്ഞാറേ അതിരും, പ്രതി സ്ഥാപനം അപ്പീലിൽ നടത്തി വരുന്ന കരുമാല്ലൂർ വില്ലേജിൽപ്പെട്ട വസ്തുവിന്റെ കിഴക്കേ അതിരും ആയ ആലുവ വെസ്റ്റ് വില്ലേജും കരുമാല്ലൂർ വില്ലേജും തിരിയുന്ന അതിർത്തി മനപ്പൂർവ്വം വെട്ടി നശിപ്പിച്ച് കല്ലുകൾ പറിച്ച് മാറ്റിയും വാദി സ്ഥാപനത്തിന്റെ വസ്തുവിലേക്ക് കയ്യേറാൻ ശ്രമിക്കുകയും തൻ മൂലം വാദി പ്രതി സ്ഥാപനങ്ങൾ തമ്മിൽ വേർ തിരിയുന്ന അതിർത്തി നിലവിൽ നഷ്ടപ്പെട്ടു പോയിട്ടുള്ളതാണ്.’ Therefore, according to the petitioners, the respondent has destroyed the western boundary of the plaint A schedule property, which is the eastern boundary of plaint B schedule property. However, the petitioner has failed to substantiate the same before the Court even after taking out Advocate Commission and the filing of Ext.C1 Commission Report. No objection seen filed by the petitioner / plaintiff to Ext.C1 Commission Report till date.

(17) In this connection, it is pertinent to note that it is the so called Power of Attorney holder of the petitioner himself has shown plaint A, B and C schedule properties to the Advocate Commissioner at the time of her visit to the properties. Even if, it is averred by the petitioner that ‘വാദി പ്രതികളുടെ വ്യക്തമായ വില്ലേജ് അതിർത്തി തിരിയുന്ന അതിർത്തി ഏതാനും ജീവനക്കാർ 28.04.2025 തീയതി വെട്ടി നശിപ്പിച്ച് ഉദ്ദേശം 4 സെന്റോളം വസ്തു വഹകൾ കയ്യേറിയിട്ടുള്ളതാകുന്നു. ആയത് അന്യായം C പട്ടികയായി വിവരിക്കുന്നു. ആയത് ചോദ്യം

ചെയ്ത വാദി സഭയുടെ മുക്യാറുകാരനായ കെ .എസ് ഡൊമിനിക് എന്നയാളെ പ്രതി സ്ഥാപനത്തിലെ മാനേജർ ഏലിയാസ് ഭീഷണിപ്പെടുത്തുകയും ...'; The same was not come out in Ext.C1 Commission Report, in spite of the fact that the Power of Attorney Holder of the petitioner i.e., K.S. Dominic himself has shown the plaint schedule properties to the Advocate Commissioner. Since, from the available evidence, the petitioner has failed to establish the prima facie case in support of their allegation in this petition, this point is found against the petitioner.

(18) **Point Nos. 2 and 3** :- As the petitioner / plaintiff has failed to prove prima facie case in support of their contention, these points also found accordingly.

(19) **Point No.4** :- From the conclusion arrived at in aforementioned point, I am not inclined to grant this petition.

In the result, I.A. dismissed with costs.

*Dictated to the Confidential Asst., transcribed and typed by her, corrected and pronounced by me in open court, this the 04<sup>th</sup> day of December, 2025.*

Wincy Ann Peter Joseph,  
Principal Sub Judge.

Appendix:-Petitioner's Exhibits:-

A1.	–	Deed No.197/1955 of Sub Registrar's Office, N. Paravur.
A2.	–	Copy of tax register of Aluva West Village Office
A3.	24.05.2025	Tax Receipt issued from Aluva West Village Office
A4.	19.09.2013	Copy of RTI of Taluk, N. Paravur
A5.	19.07.2025	Encumbrance Certificate issued from Paravur Village
A6.	28.03.1973	Deed No.691/1973 of Sub Registrar's Office, Ernakulam.

Respondent's Exhibits:-

B1.	--	Memo and Articles of Alwaye Settlement Association
B2.	--	Copy of Deed No.691/1973 of Sub Registrar's Office, Ernakulam.
B3.	11.07.2013	Copy of Order of Hon'ble High Court
B4.	27.05.2016	Copy of Order of Hon'ble High Court
B5.	24.05.2025	Tax Receipt issued from Aluva West Village Office
B6.	--	Possession Certificate issued from Aluva West Village Office
B7.	17.02.2014	Letter of Alwaye Settlement

Court Exhibits:-

C1.	12.06.2025	Commission Report
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Witness Exhibits:- Nil.

Plaintiff's Witness:- Nil

Defendant's Witness:- Nil

Principal Sub Judge.

Typed By: Jagadeeswari M.V.  
Com. By: Beena T.B.

ORDER IN  
I.A.No.1/2025 in  
O.S.No.67/2025  
DTD: 04.12.2025