

IN THE COURT OF MUNSIFF, KOTHAMANGALAM

Present: Sri. Ganesh Kumar M S, Civil Judge (Junior Division)

Thursday, the 20th day of November, 2025/29th Agrahayana 1947.

IA No.08/2025 in OS No.31/2022

Petitioners/
Plaintiffs:-

- 1 Biju Paulose, S/o. Paulose, Asarikudiyil house, Mambra, Kizhakkemury Village, Chalakkudy Taluk.
- 2 Shiji Andrews, S/o. Andrews, Parappillil House, Cheranalloor Village.
- 3 Jancy James, W/o. James, Vettuparappurathu House, Kothamangalam Village.

By Advs. M/s. N. Ramesh, Sanitha T R, Arun Martin.

Respondent/
Defendant:-

Mary, W/o. Eldhose, Nadukudiyil House, Kuroor Kara, Kothamangalam Village.

By Adv. Sri. M U Sajeevan.

This petition is coming on for final hearing on 23.10.2025 in the presence of counsel for both sides and on 20.11.2025 the court passed the following :

ORDER

1. The petition is filed by the petitioners/plaintiffs seeking to direct the defendant/respondent to restore the plaint C schedule property under section 151 of C.P.C,1908.

2. **The averments contained in the affidavit filed along with the petition, in brief, are as follows:-** The petitioners are the plaintiffs in the above suit. The suit is for injunction simplicitor. Vide order in IA No. 4/2022, this court restrained the defendant from obstructing the plaintiffs from using plaint C schedule property and also restrained the defendant from altering the lie and nature of plaint C schedule property. While so, the defendant violated the said order and obstructed the plaintiffs from using plaint C schedule property. She altered the lie and nature of plaint C schedule property by reducing it's width and also by digging hole on it. Thus, now the petitioners are not able to enjoy plaint C schedule property. Hence, it is necessary to direct the defendant to restore the same in its original position. Thus, the petition.

3. **Per contra, the respondent/defendant filed objection inter alia contending as follows:-** The description of plaint C schedule property is not proper. The advocate commissioner has not identified the same in proper manner. It is true that the defendants have laid stone on the plaint C schedule property and they have removed the same. They have not digged hole in the same. They have not altered the lie and nature of the same. Thus, the petition is liable to be dismissed.

4. From the above, the following points came up for consideration.

I. Whether the petition is liable to be allowed or not?

II. Reliefs and costs?

5. Ext.C1, C1(a) and C2, C2(a) and C2(b) series were marked.

6. Heard and perused the records.

7. **Point No.1:-** The petition is filed by the petitioners/plaintiffs seeking to restore the plaint C schedule property. Admittedly, vide order in IA No.4/2022, this court restrained the respondent/defendant from obstructing the petitioners from using

plaint C schedule property and also restrained the respondent/defendant from altering the lie and nature of plaint C schedule property. Vide order in IA No.3/2022, this court appointed Advocate Jelly Abraham to ascertain the matters mentioned in the IA. Accordingly, he filed Ext.C1 and C1(a) commission report and rough sketch. From his report, it is clear that on his inspection he came to the conclusion that plaint C schedule property is the sole access towards the plaint A schedule property (plaintiff's property). He also reported that plaint C schedule property is having approximately 2 to 3.5 meter width and 25 meter length. The said report was filed by him on 24.02.2022.

8. It is alleged by the petitioners that after the inspection by the said Advocate commissioner, the respondent have obstructed the petitioners from using plaint C schedule property. According to them, the respondent has digged hole in the same, rendering the same, useless for ingress and egress towards plaint A schedule property. In the objection the respondent has admitted that he has dumped cement blocks in the said pathway and removed the same. He denied the

allegation that he has digged hole in the plaint C schedule property. At this juncture, it is pertinent to refer to Ext.C2- commission report filed on 8.7.25. In the same, it is reported that recently hole has been made in the plaint C schedule property rendering it impossible for transporting vehicle through the same. It is also reported that the width of plaint C schedule property has been reduced. It is further reported that sand has been dumped there. The said commissioner then reported that now plaint C schedule property is not conducive for access towards plaint A schedule property. Thus, on an analysis of Ext.C1 and C2 - commission reports, it is clear that the lie and nature of plaint C schedule property has been altered. Thus, the case set up by the plaintiffs/petitioners, that the defendant has altered the same is found to be plausible. Hence, the request of petitioners to direct the respondent to restore plaint C schedule property is found liable to be allowed. Hence, I am inclined to allow the petition.

9. **Point No.II:-** In light of my findings on point No.1, I am of the view that the petition is liable to be allowed.

In the result,

The petition is allowed as follows:-

1. The respondent/defendant is hereby directed to restore plaint C schedule property within 30 days from today as it existed at the time of inspection of Ext.C1- commission report.

2. The petitioners are at liberty to restore plaint C schedule property, if the respondent fails to obey the said order by filing E P, and they can realise the costs from the respondent.

(Dictated to the Confidential Asst., typed he her, corrected and pronounced by me open court on this the 20th day of November 2025.)

Ganesh Kumar M S
Civil Judge
(Junior Division)

APPENDIX

Petitioner's Exhibits:-NIL

Respondents' Exhibits:NIL

Court Exhibits:-

C1 24.02.2022 : Commission report filed by Adv. Commissioner Jelly Abraham in IA No.03/2022.
C1(a) 24.02.2022 : Rough sketch filed by Adv. Commissioner Jelly Abraham in IA 03/2022.

C2 08.07.2025 : Commission report filed by Adv. Commissioner
Vijayan M K in IA 07/2025.

C2(a) 08.07.2025 : Rough sketch filed by Adv. Commissioner
Vijayan M K in IA 07/2025.

C2(b)
series

C2(b) Nil : Photograph.

C2(b) Nil : Photograph.

(a)

C2(b)b Nil : Photograph.

Witnesses on both sides :-NIL

Civil Judge
(Junior Division)