

IN THE COURT OF THE MUNSIFF AT ALUVA

Present:- Smt. Anju Cletus, Munsiff in charge

Friday, the 27th day of February 2026/ 08th Phalguna, 1947

I.A.No. 07/2025 & I.A.No. 08/2025 in O.S.No. 166/2025

I.A .No.07/2025 in O.S.No. 166/2025

Plaintiff:-

Renil Varghese, aged 43 years, S/o. Vareed @ Varghese P.K., Kooran Pulliyapilly House, Angadikadavu, Angamaly Village, Angamaly P.O., Aluva Taluk, Angamaly Municipality, Pin – 683 572.

By Advs. Jino Jose, Nafeesa P.S., Sayana Sanalkumar, Fathima Rahim & Sruthi P.S.

Defendants:-

1. The Secretary – Jain Varghese Pathedan, Municipality Angamaly, Pin – 683 572.
2. Angamaly Municipality, represented by its Secretary, Angamaly, Ernakulam District – 683 572.

By Adv. K. Sreesakumar

This petition filed under Order 39 Rule 1 of the Civil Procedure Code for an ad-interim mandatory injunction.

I.A.No. 8/2025 in O.S.No. 166/2025

Plaintiff:-

Renil Varghese, aged 43 years, S/o. Vareed @ Varghese P.K., Kooran Pulliyapilly House, Angadikadavu, Angamaly Village, Angamaly P.O., Aluva Taluk, Angamaly Municipality, Pin – 683 572.

By Advs. Jino Jose, Nafeesa P.S., Sayana Sanalkumar, Fathima Rahim & Sruthi P.S.

Defendants:-

1. The Secretary – Jain Varghese Pathedan, Municipality Angamaly, Pin – 683 572.

2. Angamaly Municipality, represented by its Secretary, Angamaly, Ernakulam District – 683 572.

By Adv. K. Sreesakumar

This petition filed under order 39 rule 1 of the Code of Civil Procedure for temporary prohibitory injunction.

These petitions are came up for hearing before me on 27.02.26 and the court on the same day passed the following.

COMMON ORDER

Petition filed under Order 39 Rule 1 for temporary mandatory injunction.

2. **Petition averments in brief are as follows:-** Petitioner is the plaintiff in the above case. The suit is filed for permanent prohibitory injunction for prohibiting the defendant and their men from encroaching the A schedule property and constructing foundation or fencing or wall at the eastern side boundary of the A schedule property and from obstructing the access from B Schedule Municipal Road on the eastern side to A Schedule Property and for a mandatory injunction directing the defendant to remove the concrete foundation and other objects at the eastern boundary of the A schedule property. During the local inspection conducted by the advocate commissioner on 16/04/2025, it was found that a wall was being constructed on the eastern side of the plaint schedule property using concrete bricks. At that time, around 10 workers were engaged in construction, and certain officials of the

Municipality were also present at the site representing the Municipality. At the time of inspection, the wall was measured to be approximately of 19 meters length and 3 feet height. The petitioner had filed I.A. No. 2/2025 seeking a temporary injunction prohibiting construction of the wall. However, no order of injunction has been passed so far, and the defendant continues to act illegally by constructing the said wall and dumped wastes in the 3rd week of September, 2025 obstructing the access to the property and building. As a result, the petitioner's access to the A schedule property from the eastern side to the B schedule municipal road has been completely obstructed. The public is using this municipality road for commutation. The obstruction has been caused only against petitioner's usage of the road causing severe hardship and inconvenience to the petitioner. The actions of the respondent/defendant are not at all justifiable. If the respondent/defendant is allowed to proceed with the illegal actions mentioned above, the petitioner will be put to irreparable loss and injury. Hence it is necessary to issue an interim mandatory injunction directing the defendants to remove the concrete foundation and the wall measuring approximately 19 meters in length and 3 feet in height constructed with bricks and other objects at the eastern boundary of the A schedule Property which is in front of the building. Hence, this petition.

3. The respondents filed objection contending as follows:- The 1st

respondent is the Secretary of the Angamaly Municipality. The 2nd respondent is the Angamaly Municipality. The description and the figures of the B Schedule are not correct. The property included in the B Schedule is not a municipal road. It does not come under the definition of a municipal road. It is part of the municipal market. The relief sought in the petition is to demolish the wall of the municipality. If relief of a mandatory nature is to be sought, it must be sought in the petition. Otherwise, the petition is barred by law. The plaintiff has been granted a permit dated 7-5-2024 vide BA 188/23-24 for the construction of a building on three floors including a stair cabin in an area of 232.09 sq.m on the property listed in Schedule A. In the application filed by the plaintiff with the municipality, it has been stated that the northern side is a two-meter wide private road and the eastern side is municipal property. As described in the plaint and the schedule, there is no municipal road on the east side of Schedule A. As per the Sale Deed No. 3092/1967 of the Angamaly Registry, in Block No. 11, Angamaly Village, Re.Sy No. 414/32 2.50 ares, in 420/8 13 ares, in 420/9 8.81 ares, in 420/16 11.90 ares, in 420/17 23.79 ares, in 422/14 4.15 ares in 422/16 1.85 ares, in 422/18 1.40 Ares totalling 67.40 ares of property has been purchased by the Angamaly Municipality for the construction of a municipal market there. A part of the market has been

depicted by the plaintiff as Municipal road. The property is only for the usage of the public and vehicles coming to the market. It is not possible to grant access from the property to private properties as it will seriously affect the functioning and closure of the market. The property owned by the municipality has been fenced and walled to prevent unauthorized encroachment. The municipality has taken steps to protect the property. The wall has been constructed entirely on the municipal property. Therefore, the above petition shall be dismissed with costs.

IA 8 of 2025

Petition filed under Order 39 Rule 1 for temporary prohibitory injunction.

4. **Petition averments in brief are as follows.** All averments of the petitioner in IA 7/2025 has been reiterated. Hence, the petitioner prays for a temporary injunction prohibiting the defendants and his men from encroaching the A schedule property and constructing foundation or fencing or wall at the eastern side boundary of the A schedule property and from obstructing the access from eastern side of B Schedule Municipal Road to A Schedule Property with any objects or materials.

5. **The respondents filed objection contending as follows:-** All contentions in the objection filed by the respondents to IA 7/2025 have been

reiterated and in the light of such objections the respondents pray for dismissal of this petition on costs.

6. Heard both sides.

7. The plaintiff is the owner of plaint A schedule property by virtue of Settlement Deed No.2960/2023 of Angamaly Municipality executed by his father. The plaintiff was abroad for the past 16 years and he has recently constructed a three storied building in plaint A schedule property. According to the plaintiff, he and his ancestors were using B schedule municipal market road situated on the eastern side of A schedule property for ingress and egress. Plaintiff's father is having another property also adjacent to plaint A schedule property which is also opening to the plaint B schedule road. The eastern side of the plaintiff's property was lying as open for the past 25 years. The plaintiff has brought all building materials for construction in plaint A schedule property through B schedule road. According to the petitioner, the respondents constructed a compound wall on the eastern side of his property on 10.04.2025 closing his entrance to the B schedule road, thereby obstructing his access to the municipal market road.

8. On the other hand, the respondents have objected the petition on the ground that B schedule way is not a public road and it is part of the municipal market. According to the respondents, the B schedule way is to be

used by the public only to reach the New Municipal Market and not for accessing other private properties adjacent to the market, as that of the plaintiff. The respondents further submit that construction of compound wall had become necessary to close the market and protect it from unauthorised access. The respondents have further submitted that the plaintiff's title deed has a provision for 2 metre wide private road on the eastern side of A schedule property for his ingress and egress.

9. The plaintiff relies on Settlement Deed No.2960/2023 of Angamaly Municipality to establish his title over plaint A schedule property. The description of plaint A schedule property as per the aforesaid title deed is as follows. "പണ്ടാരവക പാട്ടം പഴയ സർവ്വെ 279/8A/4, 22 1/2 സെന്റും B/1, 6 സെന്റും കൂടി 28 1/2 സെന്റമ്മ സ്ഥലവും പുറയും കൂടിയ തിൽ തെക്കുവശം കിഴക്കുപടിഞ്ഞാറേതെയും വടക്കുവശത്തിൽ കിഴക്കരികു ചേർന്ന് കിഴമേൽ 14 ലിംഗ്സ് വീതിയിലും വടക്കുവശമുള്ള റോഡിൽ നിന്നും തെക്കുഭാഗം വസ്തു വരെ നീളത്തിലും ഉള്ള സ്ഥലവും കൂടി മേൽ നമ്പർ ആധാരപ്രകാരം എനിക്ക് സിദ്ധിച്ച പഴയ സർവ്വെ 279/8A/4, 7 ആർ 94 1/4 ച:മീറ്റർ വസ്തു വകകളിൽ നിന്നും തെക്കു ഭാഗം തീരുപോക്ക് കഴിച്ച് ശേഷം റീസർവ്വെ പ്രകാരം റീസർവ്വെ ബ്ലോക്ക് നമ്പർ 11 ൽ റീസർവ്വെ 422/9, 06.34 ആറിന് കരം തീർത്തു വരുന്ന വസ്തു വകകളിൽ നിന്നും ഇയോടൊപ്പമുള്ള ടോറൻസ് മാപ്പിൻപടി അളന്ന തിരിച്ച 01.20 ആർ വിസ്തീർണ്ണമുള്ള സ്ഥലവും മൊത്തം സ്ഥലത്തിന്റെ വടക്കുവശമുള്ള PWD റോഡിൽ നിന്നും

എനിക്കവകാശപ്പെട്ട ശേഷം വസ്തുവിൽ കൂടി തെക്കോട്ട് 27.4 മീറ്റർ എത്തുന്നതുവരെ 3.6 മീറ്റർ വീതിയിലും തുടർന്ന് ശേഷം വസ്തുവിന്റെ കിഴക്കരികിൽ കൂടി കിഴക്ക് ചാഞ്ഞ് തെക്കോട്ട് പട്ടിക വസ്തുവിൽ എത്തുന്നതു വരെ 2 മീറ്റർ വീതിയിലും തിരിച്ചിട്ടിരിക്കുന്ന വഴിയിൽ കൂടി പട്ടിക വസ്തുവിലേക്ക് നിനക്കും വാഹന ഗതാഗതം ഉൾപടെ എല്പാ വിധ ഗതാഗതങ്ങളും ചെയ്യുന്നതിനും എല്പാ വിധ സർവ്വീസ് കണക്ഷനുകളും എടുത്ത് ഉപയോഗിക്കുന്നതിനുള്ള അവകാശവും സകല അവകാശങ്ങളും. ടോറൻസ് മാപ്പ് പരകാരം ടി വസ്തുവിന്റെ റീസർവ്വൈ സബ്ഡിവിഷൻ നമ്പർ 422/9/3 ആണ്."

This description would show that the transferor (father of the plaintiff) of the property has envisaged a 3.6 meter wide and 27.4 meters long private road starting from the PWD road on the north through his remaining property on the north adjacent to the A schedule property and which further narrows to 2 meter width until it reaches the plaintiff A schedule property on the southern end of such private road. The existence of a private road to the plaintiff A schedule property through the property of the plaintiff and the property of his father is made out from The title deed of the plaintiff. In such circumstances, the case of the plaintiff that he had no other means to access his property except the B schedule property prima facie appears to be not true. Whether the B schedule way is a public road that can be freely accessed by the plaintiff is a question to be decided based on evidence and no finding can arrived at in that regard at this stage.

10. However, as an alternative private road is envisaged in the title deed of the plaintiff for his access to the plaint A schedule property, this court considers that the plaintiff has not brought out a prima facie case to obtain an interim order of mandatory and prohibitory injunction against the respondents. Hence, this court considers that the present petitions are to be dismissed.

In the result, IA 7/2025 and IA 8/2025 are dismissed. No costs.

(Dictated to the adalat Ai, corrected by me and pronounced in open court on this the 27th day of February, 2026.)

Sd/-
Anju Cletus
Munsiff in charge

Appendix:-Nil

Id/-
Munsiff in charge

//True copy//

Munsiff in charge

Typed. by : Rashida
 Com. by:

Common Order
I.A 07/25 & I.A 08/25
in OS 166/2025

Dated : 27.02.2026