

IN THE COURT OF THE MUNSIFF, PERUMBAVOOR

Present:- Smt. Sumey Chandran, Civil Judge (Junior Division)

Friday, the 14th day of November, 2025/ 23rd Karthika, 1947

I. A No.02/2025 in OS No.72/2025

Petitioners/Plaintiffs:-

- 1 Krishnankutty N K, Aged 68 years, S/o. Kuttappan,
Naklikkattu House, Allapra P O, Vengola Kara,
Vengola Village, Kunnathunadu Taluk, Ernakulam District.
- 2 Saji N K, Aged 47 years, S/o. Krishnankutty N K,
Naklikkattu House, Allapra P O, Vengola Kara,
Vengola Village, Kunnathunadu Taluk, Ernakulam District.

By Adv. Arun Paul Jacob

Respondents/Defendants:-

- 1 Rethnamma, Aged 57 years, D/o. Neelakandan,
Naklikkattu House, Allapra P O, Vengola Kara,
Vengola Village, Kunnathunadu Taluk, Ernakulam District.
- 2 Gopalakrishnan, Aged 60 years, S/o. Neelakandan,
Naklikkattu House, Allapra P O, Vengola Kara,
Vengola Village, Kunnathunadu Taluk, Ernakulam District.

By Adv. T V Eldho

This petition having been finally heard before me on 14/11/2025 and the court on the same day passed the following:-

O R D E R

1. Application for Temporary Injunction
2. This is an application filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure seeking an order of temporary injunction. The petitioner is the second plaintiff in the suit and is authorised to represent the first plaintiff as well. The suit is one for permanent prohibitory injunction.

3. The petitioner's case, as pleaded in the supporting affidavit, is as follows:-

- (1) The plaint A-schedule property together with the residential building situated therein belongs to the first petitioner. The said property was obtained under Partition Deed No. 3762/1988 of Perumbavoor SRO. In the said partition, A-schedule was allotted to the first petitioner, who thereafter constructed a house in the property and has been residing there with her family.
- (2) The petitioner contends that on the northern side of the plaint A-schedule property lies the B-schedule property belonging to the respondents, which is situated at a higher level of about three feet. The petitioner alleges that the second respondent, acting for and on behalf of the first respondent, is flowing polluted water, including water used for washing clothes into A-schedule property through a hole made on the boundary wall. It is alleged that the petitioners' residence is facing continuous hardship due to this conduct.
- (3) The petitioner further contends that the respondents are attempting to dig a well in B-schedule property without any permission from the Panchayath or any compliance with statutory requirements, and that there exists heavy granite in the said land. According to the petitioner, the proposed blasting of the granite for deepening the well would endanger the stability of the boundary as well as the existing well in A-schedule property. The petitioners contend that the work of digging the well is unauthorised under the Kerala Panchayat Building Rules as well as the Kerala Minor Mineral Concession Rules and that continuation of such

unauthorised digging would cause irreparable injury. On these allegations, the petitioners seek an order of injunction restraining the respondents from proceeding with the digging of the well or causing any nuisance to A-schedule property.

4. The respondents filed objection resisting the petition. According to them, B-schedule property lies on the northern side of A-schedule property and the first respondent resides therein. There is no well in B-schedule property at present and the first respondent, being a physically disabled person with poor eyesight, is entirely dependent upon the water authority connection. However, on most days there is no water supply, compelling her to fetch water from distant houses. Owing to her disability, this has become difficult, and therefore she decided to dig a well for her essential domestic needs.
5. The respondents contend that the well is being dug at a distance of 1.40 metres away from the petitioners' property and strictly within their own boundaries. It is further contended that the southern boundary of B-schedule property already has a granite foundation constructed by the first respondent, and therefore digging of the well poses no danger whatsoever to the petitioners' boundary or the well situated in their property.
6. The respondents deny flowing any dirty or polluted water into A-schedule property and assert that the natural flow of water is from east to west, and that the petitioners themselves had attempted to construct a concrete wall on the eastern side for obstructing such flow, which led to an earlier dispute. The respondents allege that the petitioners have filed this petition only due to strained relationship between the parties. They also contend that no

permission is required to crack granite encountered during digging of a domestic well and produce a document from the Department of Mining and Geology to substantiate this contention. On these grounds, they pray for dismissal of the petition.

7. Heard both sides. Perused the records.

8. The only point that arises for consideration is:-

(1) Whether the petitioner has made out a prima facie case warranting an order of temporary injunction restraining the respondents from digging the well or from causing any interference to the plaint A-schedule property?

9. Exhibits A1 and A2 (Tax receipt and title deed of the petitioners) were marked from the side of the petitioners. Exhibit B1 to B3 were marked from the side of the respondents. Ext.B1 is the approved site plan showing the proposed well, Exhibit B2 is the Permission/approval dated 20-06-2025 issued by the Panchayat for digging the well and Exhibit B3 is the reply issued by the Department of Mining and Geology stating that no specific permission is required for cracking granite encountered during domestic well-digging. Commission Report and rough sketch prepared by the Advocate Commissioner were also marked as Exhibit C1, C1(a).

10. **Point No 1.** Upon an appreciation of the pleadings, the documents produced, and the Commissioner's report, it becomes clear that the petitioners have not shown any unlawful act on the part of the respondents nor any imminent threat to their legal rights. The petitioners' ownership and possession of the A-schedule property stand proved by Exhibits A1 and A2, yet this by itself cannot form the basis for restraining the respondents from making legitimate

use of their own B-schedule property. The respondents have produced Exhibit B1, the site plan approved by the Panchayat, together with Exhibit B2, the permission dated 20.06.2025 issued by the competent authority expressly allowing the construction of a domestic well in accordance with the submitted plan. Exhibit B3, the communication from the Department of Mining and Geology, clarifies in categorical terms that the cracking of granite that may be encountered while digging an ordinary domestic well does not attract the requirement of any separate licence or prior sanction. These documents show that the respondents commenced their work only after securing the requisite statutory approvals, and nothing has been placed before the Court to indicate that the permission granted is invalid or that the respondents have exceeded its scope. The Commissioner's report, marked as Exhibit C1 series, corroborates these materials. This is substantial distances which negate any immediate inference of danger to the petitioners' structures. The Commissioner further observed that the digging was being carried out manually, without the use of machinery, drilling equipment, or explosives, and that there were no signs of vibration, cracks, soil displacement, structural distress, or any other indication of instability affecting the petitioners' house, boundary wall, or well. Although the Commissioner, when specifically questioned, stated that the petitioners' house may be affected if blasting were to be carried out on a large scale, this observation is plainly hypothetical in nature and contingent upon an event which is not shown to be occurring at present nor suggested to be contemplated by the respondents. The temporary injunction cannot be granted on the basis of speculative fears, or remote possibilities dependent

on uncertain future conduct. To the contrary, the circumstances of the first respondent reveal genuine hardship. She is a woman suffering from significant physical disability and poor eyesight, compelled to fetch water from distant houses due to the irregularity of the water authority supply. The construction of a domestic well near her residence is therefore essential for her daily life and cannot be lightly interfered with, particularly when the activity is lawful, duly permitted, and strictly confined within her own property. The detriment to her in halting the well-digging would be immediate and substantial, whereas the petitioners have shown no present inconvenience or injury arising from the work already completed. Their grievance is founded solely on the apprehension of future blasting, a situation which does not presently exist. On a holistic consideration of the materials, including Exhibits A1 to A3, B1 to B3, and Exhibit C1 series, the Court finds no basis to restrain the respondents from proceeding with the lawful construction of a domestic well within their own land. The petitioners' apprehensions do not rise above the level of conjecture and are insufficient to grant the temporary injunction as prayed. Thus the point is found against the petitioners.

11. **In the result**, petition is dismissed.

Dictated to the Snr.Gr.Typist transcribed and typed by her, corrected and pronounced by me in open court on this the 14th day of November, 2025.

Sd/-
Sumey Chandran,
Civil Judge (Junior Division)

Appendix:-**Petitioner's Exhibits :-**

- A1 - 01/04/25 - Tax receipt of Thandaper No.3790 Vengola Village.
- A2 - 26/12/88 - Copy of the Title Deed No.3762/88 of SRO,
Perumbavoor.

Respondent's Exhibits :-

- B1 - - - Copy of the Panchayath approval site plan submitted on
23/09/25.
- B2 - 20/06/25 - Site approval and building permit issued by Vengola
Grama Panchayath.
- B3 - 04/07/25 - Copy of the reply issued by the Department of mining
and Geology.

Court Exhibits :-

- C1 & - 29/07/25 - Commission report and rough sketch submitted by the
C1(a) Advocate Commissioner Afnitha Nazeer

Witnesses Exhibits: Nil**Petitioner's Witnesses :-Nil****Respondent's Witnesses :- Nil****Court Witnesses :-Nil**

Id/-

Civil Judge (Junior Division)
(By Order)

// True Copy //

Carbon Copy issued as per order in I.A.05/25 in OS.72/25 dtd.15/11/25.

Examiner/Junior Superintendent

Typed by: jav
Cmpd by: Anand

Carbon Copy of Order in
I.A No.02/2025 in
OS No.72/2025
Dated: 14/11/2025