

**IN THE COURT OF THE MUNSIFF, PERUMBAVOOR**

**Present:- Smt. Sumey Chandran, Civil Judge (Junior Division)**  
Thursday, the 13<sup>th</sup> day of November, 2025/ 22<sup>nd</sup> Karthika, 1947

**I. A No.02/2025 in OS No.100/2017**

**Petitioner/Plaintiff:-**

Rojar Antony Vakayil, Aged 72 years, S/o. Antony, Vakayil House,  
Thottumugham Kara, Keezhmadu Village, Aluva Taluk.

By Adv. T V Eldho

**Respondents/Defendants:-**

- 1 Vasudevan Nair (Died), S/o. Raman Nair, Pulikkayathu House,  
Okkal Kara, Chelamattom Village, Kunnathunadu Taluk.
- 2 Komalam Vasudevan, W/o. Vasudevan Nair, Pulikkayathu House,  
Okkal Kara, Chelamattom Village, Kunnathunadu Taluk.
- 3 Kavitha Vasudevan, D/o. Vasudevan Nair, Pulikkayathu House,  
Okkal Kara, Chelamattom Village, Kunnathunadu Taluk.
- 4 Aswathy Vasudevan, D/o. Vasudevan Nair, Pulikkayathu House,  
Okkal Kara, Chelamattom Village, Kunnathunadu Taluk.

By Adv. M K Jayapalan

This petition having been finally heard before me on 13/11/2025 and the court on the same day passed the following:-

**O R D E R**

1. This is an application in I.A. No. 1238 in O.S. No. 100/2017 seeking to remit the Commission Report and the survey plan filed by the Advocate Commissioner.
2. The petitioner's case is that the survey plan and report do not reflect the matters that were directed to be shown in the warrant of commission. In the application for the commission, the Commissioner was specifically

asked to identify the five-links pathway and 4 feet wide pathway mentioned in the defendant's title deed. These pathways have not been shown in the plan. The petitioner also contends that the red line marked on the western side of item No. 1 of the plaint A-schedule property has been wrongly shown as a boundary, and that this line does not represent the five-links pathway or the four-feet pathway. Although the Commissioner states that the red line is the line showing possession in the annexure of the survey plan, no such pathways are marked.

3. The petitioner further submits that the Commissioner has wrongly described the letter 'C' as indicating the boundary of the pathway. Even though no such separated pathway is seen. Likewise, the description of D1 and D2 as concrete pillars marking a pathway is said to be incorrect. According to the petitioner, no such pillars existed, and these findings appear to have been influenced by the opposite party.
4. It is also contended that the extent of the plaint A-schedule property, as per the BTR, is 10.53 ares in Survey No. 48/3-2 and 16.10 ares in Survey No. 48/9, the petitioner is paying tax for the same. However, in the abstract of the survey plan, plot No. 1 is shown as only 8.85 ares, plot No. 2 is shown as 9.12 ares including 0.27 Ares being in the possession of others, and the remaining extent of 1.41 ares is not shown in the annexure. The B-schedule pathway is also not mentioned in the abstract, and the total extent of the pathway has not been separately measured or indicated. For these reasons, the petitioner seeks that the report and plan be remitted.

5. The respondents contend that the petition is frivolous and filed only because the report does not support the petitioner. They submit that the Commissioner has shown the pathway on the western side and the 1.2-metre-wide pathway on the eastern side, and has also marked the concrete posts separating the western side of the property. These posts were found to be about twenty-five years old and are noted in the earlier Commission Report. The respondents also argue that the extents of 10.53 ares and 16.10 ares are correctly recorded, and that the plan shows the possession of third parties wherever such possession exists. According to them, the area of the B-schedule pathway has been separately identified, and there is no defect that warrants remitting the report.
6. The point that arises for consideration is whether the Commission Report requires to be remitted for fresh measurement.
7. I have heard both sides.
8. Perused the Commission Report, the plan, the plaint, and the documents on record.
9. The first and foremost contention raised by the petitioner is that the plaint B-schedule pathway has not been shown either in the survey plan or in the Commission Report, despite the specific direction in the commission application. In the application seeking the commission, the petitioner had requested that the plaint A-schedule property, the plaint B-schedule pathway, and the property of the defendant covered by

document No. 4255/1993 be measured on the basis of the survey records and that a plan be prepared with side measurements.

10. As per the plaint, the A-schedule property consists of 27.10 ares of land in Survey Nos. 48/3 and 48/9 of Block No. 8 of Chelamattom Village. The plaint B-schedule is described as a four-feet-wide pathway (1.20 metres) lying on the western side of the A-schedule property in the north-south direction, starting from the Perumattom–Nambilly road on the north and having a length of 25 metres from the southern bus stand side of the A-schedule property, with a total extent of 30 m<sup>2</sup>.
11. Now from a perusal of the Commission Report, the Commissioner has stated that the A-schedule property has been measured and shown in the abstract. In the abstract, it is recorded that item No. 1 of the A-schedule measures 10.53 Ares as per the BTR, while the possession is found to be only 8.85 Ares. The remaining 0.27 Ares is shown as being in the possession of a third party. Item No. 2 of the A-schedule is shown as 16.10 Ares in the BTR, whereas the possession is 15.84 Ares. A further 0.30 Ares in the same survey number is recorded as forming part of a private pathway. The possession has thus been mapped on the basis of what the Commissioner found on the spot.
12. With regard to the plaint B-schedule pathway, the Commissioner reports that a separate four-feet-wide pathway, as described in the plaint B-schedule, is not seen as a distinct and bounded pathway on the ground. However, the Surveyor has shown two lines marked with the capital letters A and B. As per the explanation in the report, the line marked A

represents the line which would correspond to what mentioned in the defendant's deed No. 4255/1993, and the line marked B represents the line which would correspond to the four-feet-wide pathway, if such a separated pathway existed. In my view, these markings show that the Commissioner has identified and reflected the position lines relating to the alleged pathways, even though no physically separated pathway was found.

13. The Commissioner has further stated that although a pathway lies on the western side of the plaint schedule property, and although it is separated by a four-feet boundary wall, there is no pathway of five links width on the eastern side as described in deed No. 4255/1993. The Commissioner has specifically noted that the "five-links" measurement is not seen separately identifiable on the ground. Yet, the position lines relating to the claimed alignments have been shown in the plan. The pathway starting from the northern public road, and moving southwards, is shown by a red line, and the sufficiency of this identification cannot be doubted merely because the pathway is not separately walled or fenced.
14. The next contention is that the red line shown on the western side of plot No. 1 is wrong. However, the Commissioner has clarified that the red line in the annexure is the position line of the movement of the pathway portion and not a statement that a separate physical pathway of five links exists. This explanation is consistent with the plan.
15. The petitioner further contends that the five-links and four-feet measurements have not been marked. However, the markings A and B, as

noted, are expressly stated to be the boundary lines corresponding to those claimed pathways. The Commissioner has made it clear that the grounds do not disclose a physically existing pathway as described in the plaint or in the petitioner's documents, but that the relevant position lines are nevertheless shown.

16. The further objection is that the pillars marked as D1 and D2 do not exist. The Commissioner, however, has stated that such concrete posts are indeed present, and this is supported by the earlier Commission Report, which recorded the existence of granite posts of about twenty-five years of age. I find no reason to discard this finding, particularly when the earlier report also confirms the presence of such posts.
17. As to the extent of the A-schedule property, the Commissioner has measured based on actual possession and has given a clear explanation for the variation between the BTR extent and the extent in possession.
18. The petitioner also complains that the extent of the B-schedule pathway is not shown. The Commissioner has explained that no such distinct pathway, as described, exists on the spot, and therefore the area of such a pathway cannot be separately measured. Nonetheless, the boundary lines have been shown.
19. In a suit of this nature, where the prayer is essentially for fixation and separation of boundaries of the plaint schedule property and the alleged B-schedule pathway, the Commissioner has in fact shown the boundary lines and the possession lines relevant to the dispute. I therefore find no

defect or omission that warrants remitting the report and plan back to the Commissioner.

20. Accordingly, I am of the view that the petition lacks merit and is liable to be dismissed.

Dictated to the Snr.Gr.Typist transcribed and typed by her, corrected and pronounced by me in open court on this the 13<sup>th</sup> day of November, 2025.

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

**Appendix:-Nil**

Id/-  
Civil Judge (Junior Division)  
(By Order)

// True Copy //

Carbon Copy issued as per order in I.A.04/25 in OS.100/2017 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.100/2017  
Dated: 13/11/2025