

IN THE COURT OF THE MUNSIFF, PERUMBAVOOR

Present:- Smt. Sumeey Chandran, Civil Judge (Junior Division)
Wednesday, the 9th day of July, 2025 / 18th Ashadha , 1947.

I.A. No.5/2023

in

O.S. 208/2012

Petitioner/Plaintiff:-

George, Aged 65 years, S/o. Isahak, Kollaramali House,
Vengola Village, Vengola kara.

By Adv. T.R. Ramanadhan

Respondent/Defendant:-

1. Varghese(Late), S/o. Isahak, Kollaramali House, Vengola Village, Vengola kara.
2. Sucey Varghese, Aged 73 years, W/o. Varghese, Kollaramali House, Vengola Village, Vengola kara.
3. Vinodha Varghese Isaac, Aged 44 years, S/o. Varghese, Kollaramali House, Vengola Village, Vengola kara.
4. Vijay Varghese, Aged 41 years, Kollaramali House, Vengola Village, Vengola kara.

By Adv. T.V. Eldho

This petition having been finally heard before me on 09/07/2025 and the Court on the same day delivered the following:-

O R D E R

1. This is an application filed under Order XXVI Rule 10(2) of the Code of Civil Procedure by the plaintiff in the above suit. The grievance raised is that the report and plan submitted by the Commissioner and Surveyor are not in accordance with law and were prepared solely to support the case of the defendant. According to the petitioner, the earlier reports were remitted on the ground that the boundaries of the properties were not discernible and that the respective title deeds of the plaintiff and defendant were

different. In such circumstances, I.A. No. 4/22 was filed seeking a fresh measurement on the basis of the prior title deeds of the parties. However, it is alleged that the Commissioner and Surveyor failed to carry out such measurement in the manner directed and have not shown the same in the sketch now submitted.

2. The respondent has filed objection stating that the petition is not maintainable. It is contended that the Commission report and plan had already been submitted on 06.03.2014 as I.A. No. 2193/2012. Thereafter, I.A. No. 909/2014 was filed challenging the correctness of the measurement, followed by another application, I.A. No. 4/2022, which was allowed and the matter was again remitted. The present application is only a repetition of the earlier allegations and no new ground has been raised so as to warrant rejection of the present report.
3. The only point that arises for consideration is whether the present petition is allowable?
4. **The point:-** On a perusal of the report and plan now on record, which have been marked as Exhibits C1 to C1(a), it is evident that the Commissioner and Surveyor have shown in the plan the properties of both parties in accordance with their respective prior title deeds. Specifically, the property of the plaintiff has been measured with reference to document No. 799/1116, while the defendant's property has been measured based on document No. 5002/1119. There is no material on record to indicate that the measurement was conducted arbitrarily or contrary to the earlier direction of the Court. The contention that the report is entirely one-sided or intended to favour the defendant is not borne out from the plan or the narrative portion of the report.
5. It may also be noted that the trial of the case has reached an advanced stage, and the evidence is almost complete. At this point, there is nothing on record to warrant a further remittal of the Commission report.

However, if during the course of final hearing, the Court finds that remittal is necessary for proper adjudication, it shall be open to reconsider the matter at that stage.

6. Having regard to the sequence of events, including the earlier remittal of the report and the opportunity already afforded to the plaintiff to raise objections, I find no merit in the present application. The materials on record do not justify remittal of the Commission report, particularly in the absence of any procedural lapses.
7. In the result, the petition stands dismissed.

Dictated to the confdl.asstt., transcribed and typed by her, corrected and pronounced by me in open court on this the 09th day of July, 2025.

Sd/-
Sumey Chandran
Civil Judge (Junior Division)

Appendix:- NIL

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

// True Copy //

Sd/-
Junior Superintendent.

Typed by : Kmb
Compd.by : SB

Copy of Order in
I.A. No. 5/2023 in
O.S. No. 208/2012
Dated : 09.07.2025