

IN THE COURT OF THE MUNSIFF, PERUMBAVOOR
Present:- Smt. Sumey Chandran, Civil Judge (Junior Division)
Wednesday, the 17th day of December, 2025 / 26th Agrahayanam, 1947.

I.A. No. 7/2025 in O.S. No. 329/2020

Petitioner/Plaintiff:-

Najeeb, Aged 44 years, S/o Marakkar, Vattapparambil Kollamkudy House, Vengola Kara, Arackappady Village, Kunnathunad Taluk.

By Adv. Basil Kuriakose

Respondent/Defendant:-

Aasya Umma, Aged 77 years, W/o Bava, Vattapparambil Kollamkudy House, Vengola Kara, Arackappady Village, Kunnathunad Taluk.

By Adv. M K Jayapalan

This petition having been finally heard before me on 17/12/2025 and the Court on the same day delivered the following:-

O R D E R

1. This is an application filed by the petitioner seeking appointment of an Advocate Commissioner to measure the suit property and to prepare a plan for the purpose of the present case.
2. The respondent has filed a detailed objection contending that the application is not maintainable. It is specifically pointed out that the father of the present petitioner had earlier filed a suit against the very same defendant for fixation of boundary, in which the properties were measured through a Commissioner, a plan was prepared and filed before the Sub Court, and the said suit was ultimately dismissed. It is further contended that subsequent execution proceedings, namely E.P. No. 19/2020, were also initiated and that an application filed therein seeking similar reliefs was dismissed. According to the respondent, the property has already been measured in the earlier proceedings and the decree and plan in that case have been produced before this Court, and therefore there is no necessity or justification for appointing a Commissioner once again.
3. On a consideration of the pleadings, objections and the documents produced,

this Court finds force in the objection raised by the respondent. The records reveal that the very same property was earlier the subject matter of a suit for fixation of boundary, in which a Commissioner was appointed, measurement was conducted and a plan was prepared, and that the suit was dismissed. The decree and plan in the earlier suit have been produced before this Court. In such circumstances, the present application seeking appointment of a Commissioner for measuring the same property amounts to a repetition of an exercise already undertaken and concluded in earlier proceedings.

4. It is well settled that appointment of a Commissioner is not a matter of course and that such appointment cannot be permitted to reopen or re-litigate issues which have already been adjudicated upon, or to collect evidence to fill up lacunae. In the present case, no new circumstance or necessity is shown warranting a fresh measurement of the property. In view of the above facts and the materials on record, this Court is of the opinion that the application is devoid of merit.
5. **Accordingly**, I.A. No. 7/2025 is dismissed.

Dictated to the confdl.asstt., transcribed and typed by her, corrected and pronounced by me in open court on this the 17th day of December, 2025.

Sd/-
Sumey Chandran
Civil Judge (Junior Division)

Appendix:- NIL

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

// True Copy //

Junior Superintendent