

IN THE COURT OF MUNSIFF, MUVATTUPUZHA

Present : Sri. Tony T. Thadathil, JMFC-III Muvattupuzha,

In Charge of Munsiff, Muvattupuzha

Tuesday, the 23rd day of September, 2025/ 1st Aswina, 1947

I.A. No. 11/2025 in I.A. 9/2025 in O.S. No. 67/2025

Petitioners/ Defendants :

1. Molly Baby, aged 66 years, W/o. P.V. Baby, residing at Puthenpurackal (Kandanattu) House, Ramangalam Kara, Muvattupuzha P.O., Marady Village, represented by P.A. holder Jaimon Mathew, aged 38 years, S/o. Mathai Mathew residing at Ancheril House, Pothonicad P.O., Ernakulam
2. Pious George, aged 41 years, S/o. P.V. Baby, residing at Puthenpurackal (Kandanattu) House, Ramangalam Kara, Muvattupuzha P.O., Marady Village, represented by P.A. holder Jaimon Mathew, aged 38 years, S/o. Mathai Mathew residing at Ancheril House, Pothonicad P.O., Ernakulam
3. Jaimon Mathew, aged 38 years, S/o. Mathai Mathew, residing at Ancheril House, Pothonicad P.O., Ernakulam

By Adv. Gigi Peter

Respondents/ Plaintiffs :

1. P.V. Antony, aged 57 years, S/o. Varkey, residing at Kandanattu House, (Kandanattu Puthenpurackal) Ramangalam Kara, Maradi Village, Muvattupuzha Taluk
2. Poulin, aged 64 years, W/o. Baby, residing at Thattarkunnel House, Vazhappilly Kara, Mulavoor Village, Muvattupuzha Taluk

3. Santha, aged 68 years, W/o. George, residing at Kannampuzhakaliyadan House, Puthuppady Kara, Kothamangalam Village, Kothamangalam Taluk
4. Selin, aged 63 years, W/o. Devasya, residing at Kannampuzhakaliyadan House, Puthuppady Kara, Kothamangalam Village, Kothamangalam Taluk
5. P.V. Jose, aged 70 years, S/o. Varkey, residing at Kandanattu (Kandanattuputhenpurackal) House, Ramangalam Kara, Marady Village, Muvattupuzha Taluk
6. Annis, aged 79 years, W/o. Mathew, residing at Kandanattu (Kandanattuputhenpurackal) House, Ramangalam Kara, Marady Village, Muvattupuzha Taluk

By Adv. K.R. Udayakumar

This petition came up for hearing on 16.09.2025 and this Court on 23.09.2025 delivered the following:-

ORDER

This is a petition filed under Order XXVI rule 10 and section 151 of the Code of Civil Procedure, 1908, seeking direction to the commissioner and taluk surveyor to implement the order in I.A. 9/2015 as per the available survey records and title deeds.

2. The third petitioner states that petitioners had started construction of building in B schedule property after obtaining permit from the municipality. Based on the complaint of the respondents,

secretary of the municipality issued a stop memo for the construction. The allegation of respondents was that the construction was being carried out by encroaching into A schedule property. The same is false. The construction work was thereby stalled. The property of petitioners is clearly demarcated. Yet, petitioners have no objection in fixing the boundary after conducting survey measurement. They had filed I.A. 9/2025 for appointing a commissioner and surveyor for survey measurement of the properties. The same was allowed. Petitioners were intimated by the taluk surveyor that the measurement sketch of survey no. 377/29 is not available. Though petitioners approached the District Survey Superintendent and Central Survey office, Trivandrum, the said sketch was not made available. The litho map and AB plan of survey no. 377/29 are however available. The said litho map, AB plan and title deeds are sufficient to measure out the properties. Hence this petition is filed seeking direction to the commissioner and surveyor to survey the properties as per those records.

3. Respondents filed objection stating that the third petitioner is not authorized to file the present petition. It is learnt that a portion of the property of petitioners 1 and 2 was gone for the road and post to the

adjacent property. The building permit was obtained by misleading the municipal officials. It was represented by the petitioners that the entire property within the four boundaries, belong to them. Sine the same was found to be false, stop memo was issued to them. The properties of petitioners and respondents are lying contiguously. 7 cents of land is not available within the four boundaries. Since the property is small in extent, any variation in its extent will seriously affect the sharers. The prayer to measure the properties without field measurement map, is with a view to grab the property of respondents. If such a map is not available, the boundaries of the impugned survey number can be found out by referring to the map of the adjacent survey numbers. The major survey records were once obtained by the respondents. Hurried survey measurement will adversely affect the respondents. Hence it is prayed to dismiss the above petition with costs.

4. Heard the learned counsel for both sides. Perused the records.

5. The averment that the third petitioner is not duly authorized to file this petition, cannot be accepted. Clause 11 in the power-of-attorneys on record clearly speaks of the authority of the power-of-attorney to defend the suit on behalf of petitioners 1 and 2. The said

authority implies steps in furtherance of the defence. Each and every minute act that the power of attorney is authorized to do, need not be detailed in the document. It is sufficient if the authorization is sufficient in ambit to cover those acts.

6. Petitioners state that AB plan and litho map are the only available survey records in respect of the suit properties. Respondents state that they had obtained all the relevant survey documents from the survey department. If that be so, they could have produced those documents before the Court. Today, the review petition against the order allowing the survey commission application is dismissed. Hence, respondents can even now produce the relevant survey documents for seeking measurement on their basis. If no other survey documents are available, there is no other option but to measure the properties as per the available survey records and title deeds. Non-availability of one or the other survey document is no ground to abstain from fixing the boundary of the properties as prayed in the suit. Since such fixation is for the property of respondents as well, they can produce the relevant documents in this regard and file work memo for ascertaining the necessary points.

7. **In the result**, petition is allowed. Commissioner and surveyor are directed to conduct the survey measurement on the basis of all the available survey records as may be produced by both the sides and based on the title deeds concerned. Respondents may file work memo within 30 days as to the points to be ascertained from their side. They may also produce the relevant survey records.

Await filing of work memo and production of survey records, if any. Call on 06.11.2025.

Dictated to the Confidential Asst., transcribed and typed by her, corrected and pronounced by me in the open court on this the 23rd day of September, 2025.

Tony T. Thadathil.
JMFC -III Muvattupuzha,
(In Charge of Munsiff)

APPENDIX:- NIL

Munsiff

I.A. 11-2025 in I.A. 9-2025 in O.S. 67-2025

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ORDER in
I.A. 11/2025 in I.A. 9/2025
in O.S. 67/2025
Dated: 23.09.2025