

**IN THE COURT OF MUNSIFF, MUVATTUPUZHA**

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

In Charge of Munsiff, Muvattupuzha

Friday, the 07<sup>th</sup> day of November, 2025/ 16<sup>th</sup> Karthika, 1947

**I.A. 15/2025 in R.C.P. 7/2022**

**Petitioner/ Respondent:**

Theresa Jose, aged 50 years, W/o. Ajay Jose, Grace Villa, Madakkathanam P.O., Manjallur Village, Muvattupuzha Taluk

**By Adv. Suraj Krishna B.S.**

**Respondent/ Petitioner:**

Rajeena, aged 60 years, W/o. Abdul Rehim, Kombanaparambil House, Keerikode Kara, Karikode Village, Thodupuzha Taluk

**By Adv. Sherman A. George**

This petition came up for hearing on 26.09.2025 and this Court on 07.11.2025 delivered the following:-

**ORDER**

This is a petition filed under Order VI Rule 17 read with section 151 of the Code of Civil Procedure, 1908, seeking amendment of objection to R.C.P.

2. Petitioner/ original respondent states that the R.C.P. is filed by the respondent seeking eviction of petitioner from the petition schedule building on the ground of non-payment of rent and on the

ground of bona fide need for own occupation. The objection filed by the petitioner is that he had constructed a three storied building in the petition schedule property, by spending a sum of rupees one crore, on the strength of license granted by the respondent. Petitioner further stated in the objection that it was agreed between the parties that the rent amount will be adjusted against the amount spent by petitioner for construction of the building. Though necessary instructions and documents were already given to the previous counsel for petitioner, the counsel failed to state in the objection as to the legal right under which petitioner was holding the petition schedule property. In order to bring more clarity to the pleadings of petitioner and to enable this Court to arrive at a fair and just decision, the objection needs to be amended. The proposed amendments does not introduce any new case. Therefore, no prejudice will be caused to the respondent. Hence, it is prayed to permit the proposed amendments to objection filed by the petitioner.

3. Respondent/ original petitioner filed objection stating that the intention of the petitioner is to claim a new right which was not pleaded earlier. In the objection, petitioner has clearly admitted the

existence of rent agreement dated 01.01.2021. Now, the petitioner is trying to explain the said admission and through the same, she is trying to insert a new case of permanent licensee. Earlier, petitioner had filed the IA No. 7 of 2023 for referring the matter to the Civil Court. The said petition was dismissed by this Court as well as the hon'ble Appellate Court. The appeal was disposed of by the hon'ble Appellate Court by finding that petitioner had admitted the lease agreement and that the recitals in the lease agreement also speak against her. The present petition is filed to circumvent the findings of the hon'ble District Court. The intention behind the proposed amendments is to introduce a new case. Petitioner is a chronic defaulter of rent due to the respondent. Earlier, the above petition was allowed ex parte. Subsequently, it was set aside and the case was included in the list. Then, petitioner filed IA No. 7 of 2023 for referring the matter to the Civil Court. The same was dismissed by this Court as well as the appellate court. The case was again included in the list on 14.03.2025. This petition was filed at that time. The intention of the petitioner is to delay the proceedings. If the proposed amendments are allowed, the same will cause serious

prejudice to the respondent. Hence it is prayed to dismiss the above petition.

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

5. In *Benjeena P. J. v. C. P. Pappachan* [2024 (4) KHC 305], The hon'ble Kerala High Court held that *'it is equally well settled principle that a prayer for amendment of the plaint and a prayer for amendment of the written statement stand on different footings. The general principle that amendment of pleadings cannot be allowed so as to alter materially or substitute cause of action or the nature of claim applies to amendments to plaint. It has no counterpart in the principles relating to amendment of the written statement. Therefore, addition of a new ground of defence or substituting or altering a defence or taking inconsistent place in the written statement would not be objectionable while adding, altering or substituting a new cause of action in the plaint may be objectionable'*.

6. The above decision acts as a guiding light in deciding whether to allow the proposed amendments to objection filed by the petitioner. As rightly pointed out by the respondent, petitioner has

admitted the existence of a rental arrangement, in the objection. Now, respondent seeks to introduce a case of permanent licensee, which may be regarded as an inconsistent defence. The bona fides of the defences taken by the petitioner is a factor to be considered later. The question before this Court is only whether petitioner can be permitted to raise a new ground of defence which was not expressly taken in the objection. *Benjeena* supra makes it clear that it is permissible to introduce new grounds of defence or inconsistent pleas in the written statement by way of amendment. Introduction of a new ground of defence is not likely to prejudice the respondent except when it comes to the delay in disposal of the R.C.P. This petition was filed when the case was included in the list and the petitioner was present for adducing evidence. The original petition is of the year 2022. Hence, it can only be said that this petition was filed belatedly. On analysing the trajectory of this case, this Court finds reason to concur with the contention of the respondent that the petitioner has been acting with intent to delay the proceedings. Hence, this Court is inclined to allow this petition on condition of payment of penal costs.

7. **In the result**, petition is allowed on condition of payment of cost of ₹ 4,000/- to the respondent within 10 days from today.

File memo on payment of costs. Call on 20.11.2025.

*Dictated to the Confidential Asst., transcribed and typed by her, corrected and pronounced by me in the open court on this the 07<sup>th</sup> day of November 2025.*

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

**APPENDIX:- NIL**

**Munsiff**

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**ORDER in**  
**I.A. 15/2025 in R.C.P. 7/2022**  
**Dated: 07.11.2025**