

IN THE COURT OF MUNSIFF, KOTHAMANGALAM

Present: Sri. Ganesh Kumar M S, Civil Judge (Junior Division)

Wednesday, the 26<sup>th</sup> day of November, 2025/05<sup>th</sup> Agrahayana 1947.

**IA No.06/2025 & IA No.07/2025 in OS 51/2020**

**IA No.06/2025**

Petitioners/  
Proposed Addl.  
Plaintiffs:-

- 1 Suhara, aged 62 years, W/o. Aliyar P B, Palayil House, Cheruvattor Kara, Eramalloor Village, Kothamangalam Taluk-686691.
- 2 Semeena Muhammed Ali, aged 45 years, W/o. Muhammed Ali, Chirangaraputhenpura House, Koovallor PO, Pallarimangalam Village, Madiyoor, Kothamangalam Taluk-686671.
- 3 Shereena Ashraf, aged 43 years, W/o. Ashraf, Edayappuram House, Panipra, Thrikkariyoor Village, Kothamangalam Taluk-686692.
- 4 Nisamol P A, aged 38 years, W/o. Jabbar, Keethadathil House, Cheruvattor Kara, Eramalloor Village, Kothamangalam Taluk-686691.

By Advs. M/s. A C Thomas Adhikaram, K K Sidhik.

Respondent/  
Defendant:-

Haneefa, aged about 37 years, S/o. Kayyaamma and residing at Kavalackal house, Cheruvattor Kara, Eramalloor Village, Kothamangalam Taluk-686691.

By Adv. Sri. T R Ashokkumar.

**IA No.07/2025**

**Petitioners/  
Proposed Addl.  
Plaintiffs:-**

- 1 Suhara,aged 62 years, W/o. Aliyar P B, Palayil House, Cheruvattor Kara, Eramalloor Village, Kothamangalam Taluk-686691.
- 2 Semeena Muhammed Ali, aged 45 years, W/o. Muhammed Ali, Chirangaraputhenpura House, Koovallor PO, Pallarimangalam Village, Madiyoor, Kothamangalam Taluk-686671.
- 3 Shereena Ashraf, aged 43 years, W/o. Ashraf, Edayappuram House, Panipra, Thrikkariyoor Village, Kothamangalam Taluk-686692.
- 4 Nisamol P A,aged 38 years, W/o. Jabbar, Keethadathil House, Cheruvattor Kara, Eramalloor Village, Kothamangalam Taluk-686691.

By Advs. M/s. A C Thomas Adhikaram, K K Sidhik.

**Respondent/  
Defendant:-**

Haneefa, aged about 37 years, S/o. Kayyaumma and residing at Kavalackal house, Cheruvattor Kara, Eramalloor Village, Kothamangalam Taluk-686691.

By Adv. Sri. T R Ashokkumar.

These petitions are jointly coming on for final hearing on 12.09.2025 in the presence of counsel for both sides and on 26.11.2025 the court passed the following :

### **COMMON ORDER**

The IA No.6/25 is filed by the petitioners/proposed additional plaintiffs seeking to condone the delay of 15 days in filing the impleading petition under section 5 Limitation Act r/w 151 of CPC,1908.

2. The IA No.7/2025 is filed by the petitioners/ proposed additional plaintiffs seeking to implead them in the suit under order XXII Rule 3 r/w 151 of CPC, 1908.

3. **The averments contained in the affidavit filed along with the IA No.6/25, in brief, are as follows:-** The petitioners are the proposed additional plaintiff. The sole plaintiff in this case died on 04.04.2025. The petitioners are his wife and children. Thus, they became the legal representative of plaintiff upon his death. There is a delay of 15 days in filing the impleading petition. The same is to be condoned. Hence, the petition.

4. **Per contra, the respondent/defendant filed objection inter alia contending as follows:-** Petition is not maintainable either

under law or on facts. All the averments contained in the petition are false and concocted. The petitioners are not the legal representative of the deceased plaintiff. On 25.9.2020, the plaintiff has absolutely transferred the plaint A schedule property in favour of Sameena, Shereena Ashraf and Nisamol by virtue of settlement deed No.3252/1/2020 of SRO, Kothamangalam. Thus, now they are the absolute owners in possession of plaint schedule property. No reason for the delay is also explained. Thus, the petition is liable to be dismissed.

5. **The averments contained in affidavit filed along with IA No.7/25 in brief are as follows:-** The petitioners are the wife and children of the plaintiff in the above suit. The plaintiff died on 04.04.25 and thus, the petitioner became the legal representatives of the plaintiff. Thus, they are to be impleaded in the suit for the proper adjudication of the case. Hence the petition.

6. **Per contra, the respondent/defendant filed objection inter alia contending as follows:-** Petition is not maintainable either under law or on facts. All the averments contained in the petition are

false and concocted. The petitioners are not the legal representative of the deceased plaintiff. On 25.09.2020, the plaintiff has absolutely transferred the plaint A schedule property in favour of Sameena, Shereena Ashraf and Nisamol by virtue of settlement deed No.3252/1/2020 of SRO, Kothamangalam. Thus, now they are in absolute ownership and possession of plaint schedule property. Thus, the petition is liable to be dismissed.

7. From the above, the following points came up for consideration.

- I. Whether IA No.6/25 is liable to be allowed or not?
- II. Whether IA No.7/25 is liable to be allowed or not?
- III. Reliefs and costs?

8. From the side of the petitioners, no documents were marked. From the side of the respondent, Ext.B1 was marked.

9. Heard and perused the records.

10. **Point Nos.1 and 2:-** For the sake of brevity and convenience, these points are considered together. Admittedly, the sole plaintiff in the suit died on 04.04.2025. The petition is filed by the wife

and children of the sole plaintiff. From Ext.B1, it is clear that the sole plaintiff has absolutely transferred the plaint A schedule property in favour of petitioners 2 to 4. Thus, it is clear that petitioners 2 to 4 became the absolute owner in possession of plaint A schedule property. They are the persons who intermeddles with the estate of the deceased. Thus, it is clear that they come under the purview of the definition legal representative as is envisaged under section 2(11) of CPC,1908. Admittedly, the first petitioner is not the legal representative of the deceased plaintiff. Hence, she cannot be impleaded in the suit by invoking the provisions under order 22 Rule 3 of CPC, 1908.

11. The upshot of the above discussion is that the petitioners 2 to 4 are the legal representatives of deceased plaintiff. It is averred that there is delay of 15 days in preferring the impleading petition. According to them, it is only on 15.07.2025, they were able to meet their counsel and thus the delay. It is settled law that every suit shall be decided on merits. Considering the rival pleading in the plaint and written statement, I am satisfied that both the parties to the lis have meritorious case. Thus, I am of the view that the suit has to be

adjudicated in accordance with law on merits. Hence, considering these aspects, I am inclined to condone the delay and impelad petitioners 2 to 4 as additional plaintiffs 2 to 4. Thus, these points are answered accordingly.

In the result,

The petitions are allowed as follows:-

1. The delay in preferring the impleading petition is hereby condoned and the petitioners 2 to 4 are hereby impleaded as additional plaintiffs 2 to 4.
2. The office is directed to carry out amendment in the cause title of the plaint forthwith.
3. Parties shall suffer their respective costs.

(Dictated to the Confidential Asst., typed he her, corrected and pronounced by me open court on this the 26<sup>th</sup> day of November 2025.)

Sd/-

Ganesh Kumar M S  
Civil Judge  
(Junior Division)

**APPENDIX**

**Petitioners' Exhibits:-NIL**

**Respondent's Exhibits:**

B1            25.09.2020            : Settlement Deed No.3252/1/2020 of  
Kothamangalam SRO.

**Witnesses on both sides :-NIL**

Civil Judge  
(Junior Division)

Civil Judge  
(Junior Division)