

IN THE COURT OF THE MUNSIFF, KATTAPPANA

PRESENT: FELIX JOHN, MUNSIFF

Tuesday the 4th day of November, 2025 / 13th day of Karthika, 1947

IA 5/2025 IN OS 529/2022

<u>Petitioner</u> Plaintiff	:	Lissy @ Alekutty, W/o Varghese, aged 51 years, Manackaparambil House, Chelachuvadu Kara, Kanjikuzhy Village, Idukki Taluk.
		By Adv: Shiji Joseph
<u>Respondents</u> Defendants	1	Varghese Scaria S/o Scaria, aged 40 years, Venattu House, Pezhumkandm Kara, Kanchiyar Village, Idukki Taluk.
	2	Thankachan, S/o Scaria, Venattu House, Kanchiyar P.O, Kanchiyar Village, Idukki Taluk.
	3	Thomas, S/o Scaria, Venattu House, Labbakkada Kara, Kanchiyar Village, Idukki Taluk.
		By Adv: Jiby Sebastian

This petition is filed under Order VI Rules 17 of code of Civil Procedure and coming before me for hearing on 30.10.2025 and having been stood over for consideration till 03.11.2025 in the presence of the above counsel and the Court on the same day passed the following :

ORDER

This is a petition filed under Order VI Rule 17 of Civil Procedure Code.

2. **The petition averments in brief are as follows** :- Petitioner is the plaintiff in the above number suit and petitioner in the accompanying application. The suit is for damages, injunction and for other incidental and consequential reliefs. While preparing the plaint, due to oversight, the eastern

and western boundaries of the plaint B schedule property are mistakenly described in the plaint B schedule. The eastern boundary is described as a 10 feet road and the properties of defendants 1 and 3. In fact the eastern boundary is the plaint A schedule property. The western boundary is shown as property of 1st defendant and Jomon. In fact the western boundary is also plaint A schedule property. In the description of the plaint B schedule, the length of the plaint B schedule road is shown as 200 meters. In fact the total length of the road is only 75 meters. The mistakes are crept into the plaint due to an inadvertent omission. Hence without incorporating the correct boundaries, it would be fatal to the case of the petitioner. Hence the petition.

3. **The respondents filed objection averring as follows :-** The above petition is not maintainable either under law or on facts. The amendments sought in the petition cannot be allowed. As per documents and plaint, the eastern side of B schedule property is a 10 feet road and it is not possible that the remaining A schedule property would be on the eastern side of B schedule property. Moreover, in the title deeds, the 10 feet road is shown as the eastern boundary of the B schedule property. The second amendment sought is also not maintainable. There exists no material to support the amendment claiming that the total length of the road is 75 meters instead of 200 meters. The amendment sought is not sustainable. There is no such A schedule property on the eastern side and western side of B schedule property. This amendment application is filed only to drag the matter and if the petition is allowed, the nature of the suit will be changed and the defendants will be put irreparable loss and injury. Hence, it is respectfully prayed that the above petition is not maintainable and is liable to be dismissed.

4. Heard both sides.

5. The plaintiffs seeks to amend the plaint. It is stated that due to oversight eastern and western boundaries of the plaint B schedule property are mistakenly described and further that the length of the road is also mistakenly shown. The defendants have filed objection stated that there is no A schedule property on the eastern and western side of B schedule property. Further that there is no material to support the amendment to change the length of the road. It is to be noted that, the facts regarding the amendments sought can only be proved after the conclusion of trial in the case. There is no reason to disallow this petition as any incorrect pleading will only affect the case of the plaintiff and no prejudice will be caused to the defendant. The amendment sought is necessary for determining the real questions in controversy between the parties. Hence the petition is liable to be allowed.

In the result, this petition is allowed.

Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court on this the 4th day of Novembr 2025.

**FELIX JOHN,
MUNSIFF, KATTAPPANA**

APPENDIX:NIL

MUNSIFF

Typed by : Lekha
Compd. by : Ashly

FAIR ORDER IN IA5/2025 IN
OS 529/2022 DATED: 04.11.2025.