

IN THE COURT OF THE MUNSIF, ADIMALY**Present: Sri. LIJO JAMES, MUNSIF.****On Friday the 4th day of April, 2025 / 14th day of Chaitra 1947****I.A No. 4/2020 in O.S No.167/2019****Petitioner/Plaintiff:**

K.M.Elias, aged 56 years, S/o Mathew, Kuzhikkattil house, Parisakallu Kara Padikkappu.P.O., Mannamkandam Village.

By Adv.Sri.Martindas.V.James.

Respondents/Defendants:

1. Udayakali, W/o.Madhan, Padikkappu settlement, Mannamkandam Village.
2. Madhavan, /o.Veeraiah, Padikkappu settlement, Mannamkandam Village.
3. Kunjamma, W/o.Michael, Padikkappu settlement, Mannamkandam Village.
4. Kumaran, S/o.Madhavan, Padikkappu settlement, Mannamkandam Village.
5. Mohanan, S/oMadhavan, Padikkappu settlement, Mannamkandam Village.
6. Vijayamma , W/o Baby, Padikkappu settlement, Mannamkandam Village.
7. Suma, W/o.Soman, Padikkappu settlement, Mannamkandam Village
8. Salomi, W/o,Sasi, Elamblasserykudi, Mamalakandam, Kuttampuzha Village.

D1, D2-died.

D3 to D8 – By. Adv.Sri.K.P.Shibi

D3 to D8 are the legal heirs of D1 and D2 as per Order in IA.5/24 dated 04-03-2024.

This petition filed Under Order VI rules 17 r/w Section 151 of the Civil Procedure Code and coming before me for hearing on 17/03/2025 and having been stood over the consideration till 04/04/2025 in the presence of the above counsels and the court on the same day passed the following.

ORDER

1. This petition is filed under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, seeking permission to make amendments by the plaintiff in the original suit.
2. Notice was served on the respondent and the respondent filed objection.
3. The point that arises for determination in this petition is whether the amendment petition ought to be allowed, as the amendment is necessary for the adjudication of the suit.
4. Heard both sides, perused records.
5. The Point, the case of the petitioner in gist is that during drafting the plaint, it was pleaded that the disputed property covers 2 acres and 50 cents and has been in plaintiffs possession since 1979. However, the same is a typographical error, as the property has been in petitioner's possession since 1975. In IA No. 116/2018 (survey commission) which was subsequently filed by the petitioner, in the presence of the commissioner advocate, the Taluk Surveyor measured the plaint scheduled property and confirmed its actual extent as 2 acres and 56.850 cents. Hence this petition to cure the errors.
6. In this juncture we need to look at the case put up by the defendants. As per the defendant, as pleading the petitioner claims possession of 2.5 acres

in Resurvey No. 49, Block No. 4, Mannamkandam village, stating possession since 1979. However, in I.A. No. 116/2018, they misrepresented the survey details, seeking measurement under Resurvey No. 48, Block No. 48. The court, unaware of this contradiction, allowed the survey commission, which relied on a flawed local inspection report. The resulting measurement report, now challenged in I.A. No. 1/2020, is pending. The suit property falls under forest land regulations, identified under the Bhoomikeralam project. Respondents hold a possession certificate for 0.59 hectares and have a pending claim for 2.5 acres under the Forest Rights Act, 2006. Any possession claim post-1/1/1977 is barred by the Kerala Land Assignment Special Rule, 1993. The plaintiff's stated possession from 1979 cannot be changed via amendment. The proposed amendment, increasing the extent to 2.56 acres, is based on an erroneous measurement report concerning a different survey number. The petitioner's intent is malicious, aiming to create disputes.

7. The respondent's case primarily challenges the truthfulness and accuracy of the petitioner's amended pleadings. The fundamental purpose of pleadings is to provide clear notice to the opposing party about the claims and defenses, ensuring that no party is taken by surprise during the

presentation of evidence. Pleadings set the foundation for the legal proceedings by defining the scope of the dispute, allowing both sides to prepare their case effectively. In any legal proceeding, the veracity and correctness of the pleadings are assessed during the evaluation of evidence.

Be that be I find that the proposed amendment is necessary for the proper adjudication of the dispute in the suit, it is made clear that the veracity and truthfulness of the proposed amendment is not considered at this stage.

8. Hence this petition for amendment is allowed.

9. Carry out amendment within 14 days and file amended copy.

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

**LIJO JAMES,
MUNSIFF.**

**APPENDIX
NIL**

**LIJO JAMES,
MUNSIFF.**