

IN THE COURT OF THE MUNSIFF, KOYILANDY
Present:- Miss. Raveena Naz, Munsiff, Koyilandy

Tuesday the 18th day of November, 2025

I.A. No. 11/2025 in O.S. No. 44/2018

Between:

- 1 Shereefa. B.K,(**Died**), D/o. Hussain Basalvi,
Aged 55 years, Swastham, Darul Ahad,
Vannathikkandi, Panthalayani Amsom Desom,
Koyilandy Taluk, Kozhikode District, Kerala State.

Supplemental

- 2 Sayyid Thahir. P. P, Aged 49 years, S/o. Late. Usman,
Vannathikandi Valappil, Kollam PO, Koyilandy Taluk,
Kozhikode District, PIN- 673307
- 3 Bushara @ Sulaikhabi V.P, Aged 49 years, D/o. Late.
Usman, Darul Ahad,Vannathikandi Valappil, Kollam
PO, Koyilandy Taluk, Kozhikode District, PIN- 673307
- 4 Sabith P.V, Aged 42 years, S/o. Late. Usman, Darul
Ahad,Vannathikandi Valappil, Kollam PO, Koyilandy
Taluk, Kozhikode District, PIN- 673307

Petitioners/
Plaintiffs

And :

- 1 Kunhippathu, D/o Sainabha, Aged 85 years,
Swastham, Valiyavalappil House, Beypore Amsom
Desom, Mathottam, Kozhikode District.
- 2 Safiya, D/o. Ayisha, Aged 40 years, Swastham,
Mukkati Parambil, Near Elathoor Juma Masjid,
Elathoor Amsom Desom, Kozhikode Taluk,
Kozhikode District.
- 3 Shoukkath, S/o. Ayisha, Aged 38 years, Swastham,
Ayisha Manzil, Kuruvangad Amsom
Desom, Koyilandy Taluk, Kozhikode District.
- 4 Shahida, D/o. Ayisha, Aged 37 years, Swastham,
Sithar House, Panthalayani Amsom, Kovilkkandy
Desom, Koyilandy Taluk, Kozhikode.

Respondents/
Defendants

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| <p>5 Basheer, S/o Ayisha, Aged 42 years, Swastham, Ayisha Manzil, Chemancheri Amsom Desom, Kappad, Koyilandy Taluk, Kozhikode District.</p> <p>6 Fathima, W/o. Abdurahimankutti, Aged 75 years, Swastham, Fathima Manzil, Mubarack Road, Panthalayani Amsom Desom, Koyilandy Taluk, Kozhikode District.</p> <p>7 Hafsath, D/o. Abdurahimankutti, Aged 55 years, Swastham, Masnas, Edakkulam Amsom Desom, Koyilandy Taluk, Kozhikode District.</p> <p>8 Rahiya. U.K, D/o. Abdurahimankutti, Aged 48 years, Mukkadi Kandi House, Chemanchery Amsom Desom, Kappad, Koyilandy Taluk, Kozhikode District.</p> <p>9 Shamsudheen, S/o. Abdurahimankutti, Aged 45 years, Swastham, Fathima Manzil, Mubarack Road, Panthalayani Amsom Desom, Koyilandy Taluk, Kozhikode District.</p> | } | Respondents/
Defendants |
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This Petition coming on this day for hearing before me in the presence of Sri. Ajmal. M, Advocate for Petitioners and Sri. M. P. Sukumaran and Smt. Ambili. S, Advocates for Respondent Nos. 1 to 4 and Sri. C.S. Jathish Babu, Advocate for Respondent Nos. 6 to 9 and Respondent No. 5 not entered in appearance and the Court passed the following:

ORDER

1. Petition is filed under Order 1 Rule 10 of Code of Civil Procedure.
2. Petitioner contends that Defendant Nos. 12 and 13 in OS 522/1936 of Munsiff Court, Payyoli has specific rights in the property and seeks for impleading them as parties in the suit.

3. Respondent Nos. 1 to 4 filed Objection contending that the Petition is not maintainable. No interest is vested on the persons sought to be impeaded in the Petition. Respondent Nos. 6 to 9 also filed Petition contending that the attempt of Petitioner is to drag the proceedings.
4. Heard both sides.
5. Petitioner herein is the Plaintiff in the suit. The suit has been filed for partition of petition schedule property and to allot 3/6 share in petition schedule property in favour of the Plaintiff. The specific case of the Petitioner who is the Plaintiff in the suit is that the Petitioner and Respondent are in joint possession and ownership of the petition schedule property. There was no case for the Plaintiff that Smt. Pathumma had only 1/3rd interest in the petition schedule property as per the decree in OS 522/1936 of Munsiff Court, Payyoli. When the Petitioner is contending in the suit that they were in the joint possession and ownership of the property, the contention that Defendant Nos. 12 and 13 in OS 522/1936 has to be made parties is untenable. On a perusal of decree in OS 522/1936 it is clearly stated that Smt. Pathumma is not vested with only 1/3 rights. It is also stipulated that in the absence of Smt. Pathumma, her right shall be enjoyed by the female children. No such right is vested to the children of Defendant Nos. 12 and 13 in OS 522/1936. It is also clearly stated in the settlement agreement that Defendant Nos. 12 and 13 does not have any right to obstruct the enjoyment of property by Smt. Pathumma or make any constructions thereupon. Paragraph 7

of the decree also do not suggest that Smt. Pathumma and Defendant Nos. 12 and 13 had equal rights over property. For the mere reason that the Defendant produced a document wherein the children of Smt. Pathumma were referred as Defendant Nos. 12 and 13 in OS 522/1936, such persons shall not be impleaded in the suit. There was no case for the Plaintiff that Smt. Pathumma and Defendant Nos. 12 and 13 were in joint possession of the property. Hence IA is dismissed. IA closed.

(Pronounced by me in open Court, on this the 18th day of November, 2025).

Sd/-
MUNSIFF

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Order in IA 11/2025
in OS 44/2018
Dated: 18.11.2025