

IN THE COURT OF THE MUNSIFF, NADAPURAM.

Present: Sri. Yadukrishnan. B, Civil Judge (Junior Division)

Wednesday, the 28th day of January, 2026**IA 3/2025 in OS 158/2025**Between:

NHEROLIMEETHAL NOUFIYA,]	
W/o. Muneer, Aged 35 years, Now residing at]	
Korollathil, Chelakkad (PO), Nadapuram Village,]	<u>Petitioner/</u>
Chelakkad Desom, Vatakara Taluk, Kozhikode]	Plaintiff
District, 673 506.]	

And:

1 SHAJI,]	
S/o. Kumaran, Aged 48 years, Pachentavida House,]	
Tuneri (PO), Tuneri Amsom & Desom, Vatakara]	
Taluk, Kozhikode District.]	
2 BINDU,]	<u>Respondents/</u>
W/o. Shaji, Aged 40 years, Pachentavida House,]	Defendants
Tuneri (PO), Tuneri Amsom & Desom, Vatakara]	
Taluk, Kozhikode District.]	

This petition coming on this day for hearing before me in the presence of Sri. Ali. V, Advocate for the petitioner and of Sri. Jishine Babu. N, Advocate for Respondents and this court passed the following:-

ORDER

IA 3/2025 is an injunction application filed by the petitioner/plaintiff under Order 39 Rule 1 of the Code of Civil Procedure.

2. **The averments in the petition is in brief as follows:-** The

petitioner is the absolute owner of the plaint A schedule property and the respondents are the neighbors residing north west direction to the plaint A schedule property and they want to built a ramp at the entrance of their house for smooth traffic of the vehicle from the PWD road to their house. If the ramp is constructed there, the free flow of rain water would be blocked and the rain water would flow through the plaint A schedule property. On the northern side of the plaint A schedule property there is a public path way having a length of 29 meters in front of the plaint A schedule property from the road to the respondent's entrance and the width of 2.5 meters after filling of the soil, which also enables free flow of rain water from the nearby hill without causing obstruction or stagnation, shown as plaint B schedule property. The case of the petitioner is that the respondents, their men or agents are doing certain acts to fill the soil or making any construction on the B schedule path way which is situated on the plaint A schedule property which blocks the natural flow of rain water. It has to be restrained by an order of injunction passed by this court. Hence, this petition.

3. The respondents appeared and filed objection to the petition which is in brief as follows:- According to respondents the petitioner is not having any right or authority over B schedule property. These respondents

have not fill up any soil in the plaint B schedule property to increase its height as pleaded by the petitioner. The plaint B schedule property absolutely belonged to the defendants and their successors. At present, the B schedule property is used as a way by the respondents to enter into their property. The present petition is without any bonafides and is only to be dismissed with costs.

4. From the side of the petitioner/plaintiff 8 documents were produced and marked as Exts.A1 to A8. From the side of respondents no documents are marked. The commission report and plan is marked as Ext.C1 and C1(a). The documents produced from both sides are marked only for the purpose of deciding the IA's.

5. Following are the points arises for consideration:-

- 1) Is the petitioner/plaintiff made out a prima facie case?
- 2) Is the balance of convenience in favour of the petitioner/plaintiff?
- 3) Is the petitioner/plaintiff entitled for an order of injunction from this court?
- 4) If an order of injunction is not granted whether it will

cause any irreparable loss or injury to the petitioner/plaintiff?

5) Reliefs and costs?

6. Heard both sides. Perused the records.

7. **Point No. 1 to 4** :- All the points are considered together for the sake of convenience and clarity. This is a suit for permanent prohibitory injunction. The documents produced by the petitioner clearly establish that the petitioner is in the possession of plaint A schedule property. The title deeds with respect to plaint A schedule property is proved through Ext.A1 to A3 documents. The petitioner is also paying tax with respect to the plaint A schedule property which is proved through Ext.A4 to A6 documents. Ext.A7 is the sketch plan of the plaint schedule properties and Ext.A8 is the complaint preferred by the petitioner before the Thuneri Grama Panchayath about the apprehension faced by her as stated in the plaint. To prove the apprehension the petitioner has taken out a commission and the Advocate commissioner has filed the report along with a sketch which is marked as Ext.C1 and C1(a). As per the report of the Advocate commissioner it has been stated by the commissioner that there has been a filling of soil by the

defendant on the plaint B schedule property on its eastern and western side. The Advocate commissioner has also stated the natural slop and direction of rain water flow and the kind of obstruction that may be caused to plaint A schedule property due to the filling up of soil in east western portion of the plaint B schedule property. Thus, Ext.C1, C1(a) report and plan prima facie establish the apprehension faced by the petitioner. However, the petitioner is having no case in her pleading that she is in possession of the plaint B schedule property. It is true that the petitioner is not having any authority over plaint B schedule property. The respondent submits that they are in possession of the plaint B schedule property. However, no documents are produced before this court to establish the fact that the respondents are in possession of plaint B schedule property. Therefore, the question that who is in possession of plaint B schedule is not established before this court. In such a situation an order of injunction cannot be completely granted in favour of the petitioner. However, the grievance of the petitioner cannot be given least important as well. Thus, in the light of discussions and considering the apprehension faced by the petitioner an order of statusquo is granted rather than giving an order of injunction. Thus, both parties are directed to maintain statusquo ante as on the date of the suit. Points found accordingly.

8. **Point No. 5** :- In the light of discussions held in point No. 1 to 4, both parties are directed to maintain statusquo as on the date of the suit.

In the result, both parties are directed to maintain statusquo as on the date of the suit.

(Dictated to Confidential Assistant, Typed by him in office computer corrected and pronounced by me, in Open Court, on this the 28th day of January, 2026).

*Sd/-
Civil Judge
(Junior Division)*

Exhibits Marked:-

Petitioner's Exhibits:-

- | | | | | |
|----|---|------------|---|----------------------------------------------------------------|
| A1 | : | 09.10.2024 | : | Assignment Deed No. 1210/2004 of SRO, Tuneri. |
| A2 | : | 08.01.2025 | : | Gift Deed No. 32/2025 of SRO, Tuneri. |
| A3 | : | 01.08.2025 | : | Assignment Deed No. 955/2025 of SRO, Tuneri. |
| A4 | : | 04.12.2024 | : | Basic Tax Receipt issued by Village Office, Tuneri to Noufiya. |
| A5 | : | 15.09.2025 | : | Basic Tax Receipt issued by Village Office, Tuneri to Noufiya. |
| A6 | : | 06.05.2025 | : | Basic Tax Receipt issued by Village Office, Tuneri to Noufiya. |
| A7 | : | | : | Surveyor Sketch. |
| A8 | : | 25.11.2025 | : | Acknowledgment issued by Tuneri Gramapanchayath to Noufiya. |

Respondents' Exhibits:- Nil

Court's Exhibits:-

C1 : 19.12.2025 : Commission Report filed by Adv. Krishnakumar. K.
C1 (a) : 19.12.2025 : Sketch Plan filed by Adv. Commissioner Krishnakumar. K

Witness Examined:- Nil

*Sd/-
Civil Judge
(Junior Division)*

/True Copy/

*Civil Judge
(Junior Division)*

Fair/Copy of order in IA 3/2025 in OS 158/2025
Dated : 28.01.2025.