

IN THE COURT OF THE MUNSIFF, NADAPURAM.

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

Friday, the 28th day of November, 2025**IA 7/2025 in OS 139/2024****Between:**

HAMEED HAJI KINARULLA PARAMBATH,	]	
S/o. Avulla Haji, Aged 53 years, Business,	]	
Velliyodu Amsam, Bhoomivathukkal Desom,	]	<u>Petitioner/</u>
Vanimel (PO), Vatakara Taluk, Kozhikode District,	]	Plaintiff
673 506.	]	

And:

MUHAMMAD IQBAL CHETTYAM VEETIL,	]	
S/o. Moosa Haji, Aged 49 years, Business, Vanimel	]	
Amsom, Verkkadavu Desom, Vatakara Taluk,	]	
Vanimel (PO), Kozhikode District, 673 506.	]	
Represented by Power of Attorney Holder	]	<u>Respondent/</u>
HAMEED KAVILUMPARA, S/o. Sooppy, Aged	]	Defendant
41 years, Kavilumpara (H), Kodyyura (PO),	]	
Vanimel Amsom, Kodyyura Desom, Vatakara	]	
Taluk.	]	

This petition coming on this day for hearing before me in the presence of Sri. N. M. Rajagopal and Sri. Adeeb Salah, Advocates for petitioner and of Sri. C. R. Biju, Advocate for Respondent and this court passed the following:-

ORDER

This is a petition filed by the counsel for the petitioner/plaintiff under Order 26 Rule 9 of the Code of Civil Procedure to appoint and Advocate commissioner.

2. According to the petitioner/plaintiff the respondent/defendant has filed

their written statement and as per the written statement they have raised an issue that the plaint schedule property is not identifiable. Therefore, the plaint schedule has to be identified by the Advocate commissioner and has to file a report and plan based on it. Hence, the petition may be allowed.

3. The respondent/defendant filed their objection stating that there is no property in the possession of the plaintiff as per the title deed and the petitioner/plaintiff has not produced any document showing their possession over the plaint schedule property. No prior deeds are produced before this court. Further more the neighboring people who shares the boundary with the plaintiff/petitioner is not arrayed as a party. Hence, the petition is only to drag the proceedings and is to be dismiss with costs.

4. Heard both sides.

5. This is a suit for fixation of boundary and recovery of possession. This court has gone through the written statement of the defendant. In the 2nd paragraph of the written statement the defendant disputes the identity of the plaint schedule property and also disputes the right of the plaintiff over the plaint schedule property. According to respondent/defendant as per the written statement there is no such property in the possession of the plaintiff. Since, the respondent/defendant has disputed the identity in their written statement this court has framed an issue that is the plaint schedule property identifiable. Therefore, there is a dispute with

respect to the identity and has to be cleared before this court for which the petitioner/plaintiff has filed the present application. Hence, in the interest of the justice to determine a real question of controversy between the parties the petition has to be allowed. Thus, the petition is allowed and Advocate Vivek K. P. is appointed as the Advocate commissioner. The Advocate commissioner is directed to inspect the plaint schedule property and the property shown by the defendant as per the written statement based on the title deeds and prior deeds after giving notice to both sides. The respondent/defendant is permitted to file work memo if they requires the same. The commission batta is fixed for Rs.5,000/-. The Advocate commissioner can file memo if he requires the assistance of a Taluk Surveyor at any stage of inspection with respect to the measuring of the property. Hence, the petition is allowed.

In the result, IA 7/2025 is allowed and deposit the commission

batta of Rs.5,000/- before the court within 5 days. Call on 03.12.2025.

(Dictated to Confidential Assistant, Typed by him in office computer corrected and pronounced by me, in Open Court, on this the 28th day of November, 2025).

*Sd/-
Civil Judge
(Junior Division)*

/True Copy/

*Civil Judge
(Junior Division)*

Fair/Copy of order in IA 7/2025 in OS 139/2024
Dated : 28.11.2025.