

IN THE COURT OF THE MUNSIFF, PUNALUR  
PRESENT :-Smt. Reshma R.S, Civil Judge, Junior Division  
Wednesday the 19<sup>th</sup> day of November 2025, 28<sup>th</sup> day of Karthika 1947  
**IA 10/2025 in OS 07/2012**

**Between**

**Petitioner**  
**(Defendant)**

: Purushothaman, aged 75 years, S/o. Velayudhan,  
Kolachira Padinjattethil Veedu, Maloor P.O,  
Pattazhi Vadakkekara.

**(By Adv. L.Thomas)**

**And**

**Respondents**

- : 1. Mohanan, aged about 58 years, S/o.Podiyam,  
Sargam, Maloor Muriyil, Pattazhi Vadakkekara  
Village.  
2. Mini Mohanan, aged about 51 years, W/o. Mohanan,  
Sargam, Maloor Muriyil, Pattazhi Vadakkekara  
Village.  
3. District Collector, Kollam District for Kerala State.  
4. Secretary, Pattazhy Vadakkekara Grama Panchayat  
Office for Pattazhy Vadakkekara Grama Panchayat.

**(By Adv. M.Sethu Mohan for D4)**

This petition is coming on for hearing before me on 19.11.2025 and on the same day court passed the following.

**ORDER**

Application filed under Order I Rule 10 (2) and Section 151 of the Code of Civil Procedure, 1908.

2. **The application averments in brief are as follows:** The applicant is the defendant in the case. The suit is filed for an injunction simpliciter. The applicant has filed a counter claim seeking the relief of mandatory injunction. On 15.01.2025, the Advocate Commissioner and Surveyor visited the plaint

schedule properties and submitted a survey commission report on 03.02.2025. The western side property owners, Saji Mathew and his wife Jessie Mathew, trespassed on the purambokku public pathway and erected illegal constructions in violation of the Kerala Panchayath Building Rules. Hence, the applicant sent a notice through his counsel to the Panchayath on 08.01.2020. Thereafter, the Panchayath issued a stop memo. To have a proper determination of the counter claim in this case, the proposed parties are necessary parties. As per the survey plan, the property and possession of the plaintiff, which was shown using the letters TPST and the counter claim Schedule pathway and the purambokku land situated immediately near the property of the proposed parties are to be restored to its previous position to restore the pathway. Hence, the proposed parties, who encroached upon the portions of the counter claim schedule pathway are to be impleaded as additional counter claim defendants. The applicant is hereby reserving the right to make necessary amendments in the counter claim after impleading these parties. Otherwise, it would cause irreparable injury and hardships to the applicant. Hence, this application.

**3. The proposed defendants filed objection contending the following:**

The application is not maintainable either in law or on facts. The present application is filed to protract the proceedings in this case and to cause hardships to the proposed parties after impleading them as additional defendants in the counter claim. The proposed parties were not in possession of the portion of property shown as CWVC in the survey plan. The properties

in possession of the proposed parties are comprised in Pattazhi Vadakekara Village in thandapper No. 4432, in Survey No. 248/3, having an extent of 7 ares 58 square meters. The property was resurveyed, and the boundaries were fixed. The applicant realised that he would not be able to recover the possession of the plot shown using letters TPST from the plaintiff. Hence, he is trying to grab the properties of the proposed defendants. For the last 13 years, there was no need to implead the proposed parties as additional defendants. If this application is allowed, it would cause irreparable injury and hardships to the applicant. The proposed parties purchased 20 cents of property in accordance with law. But after re-survey, the extent was reduced to 18.75 cents. The proposed parties are paying land tax and other governmental dues. There is no need to implead the proposed defendants in the counter claim. The applicant is seeking declaratory relief regarding the boundary of the property. The claim is barred by the law of limitation. There is a time limit direction to dispose of this case within 6 months. The applicant is now trying to prolong the proceedings. The original dispute is between the plaintiff and the defendants. The proposed parties do not have any interest, and are not necessary parties. Hence, the present application is liable to be dismissed with costs.

4. The plaintiff and other defendants submitted no objection to this application.

5. Ext. C1 series marked.

6. Heard both sides.

7. The sole point to be considered is whether this application can be allowed.

8. **The point:** The learned counsel for the applicant argued that the application is to be allowed in the interest of justice. According to the applicant, he has filed a counter claim seeking the relief of mandatory injunction to remove the illegal constructions in the counter claim schedule pathway. It was also contended that in the survey commission report, the advocate commissioner reported that some portions of the counter claim schedule pathway are in the possession of the proposed defendants. Hence, the applicant filed this impleading petition to array them as additional counter claim defendants. Per contra, the learned counsel for the proposed defendants vehemently objected to the application on the ground that the present application is filed to cause hardships to the proposed defendants and that they are not necessary parties to the counter claim. It was also contended that the counter claim was filed 13 years ago, and now the present application is filed without any bona fides. Hence, the proposed defendants prayed for the dismissal of the application.

9. The present suit is filed seeking the relief of injunction simpliciter. The 1<sup>st</sup> defendant in this case filed a counter claim seeking a mandatory injunction to remove the illegal constructions made in the counter claim schedule property. According to the applicant, the proposed parties are necessary parties

to the counter claim, as the advocate commissioner reported that a portion of the counter claim schedule property is in their possession. The survey commission report filed by the advocate commissioner assumes significance here. A perusal of Ext. C1 series makes it clear that the portion shown in Ext. C1 (b) plan using letters 'CVWC' was reported to be in possession of Jessy Mathew. That Jessy Mathew is the proposed additional 6<sup>th</sup> defendant. The advocate commissioner also reported that the western side property belongs to the proposed defendants. Here the counter claim is filed seeking a mandatory injunction. There is a specific prayer to remove the illegal constructions in the counter claim schedule pathway, and if the counter claim defendants fail to comply with the decree, the counter claim plaintiff has sought to execute it through the process of the court. As per the report of the advocate commissioner, a portion of the counter claim schedule pathway is in the possession of the proposed defendants. The proposed defendants do not dispute the fact that they do not have property near the counter claim schedule pathway. As the relief sought is mandatory injunction, to have a proper adjudication of the counter claim, the proposed defendants are necessary parties to the suit. If they were not arrayed as parties to the counter claim, the decision taken in this case, in their absence, would prejudice their proprietary rights. Hence, to have a just adjudication of the counter claim, this court considers it proper to allow this application.

**In the result:** This application is allowed. Office is directed to implead the proposed parties as additional 5<sup>th</sup> and 6<sup>th</sup> defendants in the counter claim. There shall be no order as to costs.

Pronounced in open court on this, the 19<sup>th</sup> day of November, 2025.

Sd/-  
Civil Judge (Junior Division)

**Appendix:**

**Court Exhibits**

C1	03.02.2025	Report prepared by the Adv. Commissioner S.D.Sindhu
C1(a)	15.01.2025	Mahazar prepared by the Adv. Commissioner S.D.Sindhu
C1(b)	15.01.2025	Rough sketch prepared by Adv. Commissioner S.D.Sindhu

Id/-  
Civil Judge (Junior Division)

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Typed by : Saranya V S

Compared by :

**CIVIL JUDGE (Junior Division)**