

IN THE COURT OF THE MUNSIFF, PUNALUR
 PRESENT :-Smt. Reshma R.S, Civil Judge, Junior Division
 Tuesday the 18th day of November 2025, 27th day of Karthika 1947.

IA 11/2025 in OS 134/2008

Between

**Petitioners/
Plaintiffs**

:

1. Maneesh, D/o. Earnest Perera, Evershine, Vilakkudi Muri, Vilakkudi Village, Pathanapuram Taluk, Kollam District.
2. Maya, D/o. Earnest Perera, Evershine, Vilakkudi Muri, Vilakkudi Village, Pathanapuram Taluk, Kollam District.
3. Manoj, S/o.Earnest Perera, Evershine, Vilakkudi Muri, Vilakkudi Village, Pathanapuram Taluk, Kollam District.
4. Esther, W/o. Earnest Perera, Evershine, Vilakkudi Muri, Vilakkudi Village, Pathanapuram Taluk, Kollam District.

(By Adv. V.M.Joseph)

And

**Respondents/
Defendants**

:

1. Justus Perera, S/o. Joseph Perera, Morning Star, Vilakkudi Muri, Vilakkudi Village, Pathanapuram Taluk, Kollam District.
2. Alphose Perera, S/o.Joseph Perera, Morning Star, Vilakkudi Muri, Vilakkudi Village, Pathanapuram Taluk, Kollam District.
3. Fredittamma Berty, Fabi, Kannimel cherry, Vadakkevila Village, Kollam, C/o Joseph Perera, Morning Star, Vilakkudi Muri, Vilakkudi Village, Pathanapuram Taluk, Kollam District.
4. Hycinth Sophiya, Kalicherry House, Kaumudi Nagar, Pallithottam P.O, Kollam East Village, Kollam.

(By Adv. P.C.Sivarja Pillai For D1 & Adv. R.Sivadasan for D2)

This petition is coming on for hearing before me on 18.11.2025 and on the same day court passed the following.

ORDER

Petition filed under section Rule 114 and Order 47 Rule 1 and 2 of the Code of Civil Procedure Code, 1908.

2. **The petition averments, in brief, are as follows:** - The petitioners are the plaintiffs in the suit. The original suit was filed for partition and declaring the sale deed No. 2548/2007 of Punalur as null and void and for other consequential reliefs. The petitioners earlier filed IA 9/2025, an amendment application seeking to incorporate a relief of declaration in the prayer portion. The plaint A to D schedule properties belonged to Josephine, the mother of defendants 1 to 3 and late Earnest Perera. After the death of Josephine, the properties devolved upon plaintiffs and defendants 1 to 3. The plaintiffs demanded partition of the properties, as the defendants were not amenable; the suit was filed. Josephine was laid up for two years before her death. She lost her memory, senses and was unable to identify others, and she was under the control of the 1st defendant. It is reliably learnt that the settlement deed Nos. 3032/2007, 3037/2007, 3038/2007 and 3039/2007 were executed in favour of 1st defendant by Josephine while she was undergoing ailments and incapacity. Those settlement deeds are fraudulently executed and are void. The details of the execution of those settlement deeds are set out in the plaint. But regarding the voidness of those documents, no prayer was included in the prayer portion to avoid unnecessary complications. The petitioner filed IA 9/2025. This court dismissed IA 9/2025 on a misinterpretation of the provisions of Rule 47 in

Order 6. This court ought to have taken a lenient view in the light of decisions of the Hon'ble Apex Court and the Hon'ble High Court. The proposed amendment would not change the nature of the suit. Hence, the order in IA 9/2025 may be reviewed. Hence, this petition.

3. **The 1st defendant filed objection contending the following:** - The review application is not maintainable either in law or on facts. The application lacks bona fides. The case was instituted 17 years ago. The entire evidence was closed, and the case stands posted for final hearing. An amendment application, IA 9/25, was filed at that stage, and it was dismissed. The present application file to review that order is filed without stating any sufficient reasons. The present application is filed to protract the proceedings. No sufficient reason is stated in the application, and hence, the same is liable to be dismissed with costs.

4. **The 2nd defendant filed objection contending the following:** - The application is not maintainable either in law or on facts. This application is an illegal one aimed at delaying the trial and causing hardships to the defendants in enjoying their properties. The applicant is not entitled to review of the order because the remedy of review does not permit rehearing of the matter for a fresh decision. An order cannot be reviewed except where there is a glaring omission, patent mistake or grave error. IA 9/2025 was dismissed on legally and factually sustainable reasoning. Hence, the present application is liable to be dismissed with costs.

5. Heard both sides.

6. The sole point to be considered is whether the order in IA 9/2025 can be reviewed?

7. **The Point:** The learned counsel for the petitioner argued that the application is to be allowed in the interest of justice. According to the petitioner, this court overlooked various judicial precedents laid down by the Hon'ble Apex Court and Hon'ble High Court of Kerala and hence sought to review the order in IA 9/2025. On the other hand, the learned counsel for the respondents vehemently objected to this petition on the ground that the present petition is an abuse of the process of the court, and the grounds to review an order do not arise in the present case. Hence, the respondents prayed for the dismissal of the application.

8. The petitioners have filed the present petition to review the order in IA 9/25. IA 9/25 was an amendment application, and this court dismissed it. The reason stated by the petitioners is that at the time of deciding IA 9/25, this court overlooked various judicial precedents laid down by the Hon'ble Apex Court and Hon'ble High Court of Kerala. The contention of the learned counsel for the petitioner is that the proposed amendment sought in IA 9/25 is essential to have a final adjudication of the dispute between the parties and that only a minor amendment is sought in the prayer portions, whereas enough pleadings are there in the body part of the plaint. The reasons stated in the application are the non-consideration of the judgment in the Hon'ble Apex Court and Hon'ble

High Court of Kerala. The learned counsel for the petitioners relied on the various decisions of the Hon'ble Apex Court and the High Court of Kerala. It is a settled point of law that overlooking a binding judicial precedent is a ground for review. Here, the amendment is sought only on the prayer portion and there is no amendment to the other pleadings. From the peculiar circumstances of this case, it can be seen that the petitioners wants to incorporate the deed numbers only, wherein there are pleadings regarding the vitiating elements of those documents. Hence, it can be seen that the proposed amendment cannot be considered that prejudicial to the respondents, as there are no changes sought in the body part of the plaint. Already the defendants filed their written statement challenging the pleadings of the plaintiffs, and the entitlement of the plaintiffs to get a decree. Hence, this court is of the view that in light of the various judicial precedents, this review petition can be allowed.

In the result: This application is allowed. The order in IA 9/25 is reviewed, and IA 9/25 is allowed. Carry out the amendment within 5 days. There shall be no order as to costs.

Pronounced in open court on this the 18th day of November 2025.

Sd/-

Civil Judge (Junior Division)

Appendix: Nil

Id/-

Civil Judge (Junior Division)

//True Copy//

Typed by : Saranya V S

Compared by :

CIVIL JUDGE (Junior Division)