

IN THE COURT OF THE MUNSIFF, PUNALUR
 PRESENT :-Smt. Reshma R.S, Civil Judge (Junior Division)
 Thursday the 10th day of July 2025, 19th day of Ashadha 1947

IA 1/2025 in OS 201/2025

Between

Petitioner/:
Plaintiff

Vijayakumari Eswari Pilla, W/o K.B. Anil Kumar,
 aged 59, residing at Kamalalayam, Edacode Desham,
 Pallichal Village, Neyyattinkara Taluk,
 Thiruvananthapuram.
(By Adv. Kaippallil. G. Harikrishnan)

And

Respondents/:
Defendants

1. Balachandran Pilla, S/o T. Gopala Pilla,
 aged about 55, Akshaya Tejas, Alancheri,
 Eroor P.O, Eroor Village, Punaloor Taluk.
2. Madhusoodhanan Pilla, S/o R. Raghavan Pilla,
 aged about 60, Palamuttathu Veedu,
 Alancheri, Eroor P.O, Punaloor Taluk.
3. Sajeev, S/o Kuttan Pilla, aged about 38,
 Saji Bhavan, Alancheri, Eroor P.O,
 Punaloor Taluk.
4. Suresh Babu, S/o Ayyappan Pilla, aged about 62,
 Sheelalayam, Alancheri, Eroor P.O,
 Punaloor Taluk(All)
(By Adv. S. R. Amrit)

This petition is coming on for hearing before me on 10.07.2025 and on the same day the court passed the following.

ORDER

Application filed under Order XXXIX Rule 1 of the Code of Civil Procedure, 1908.

2. **The application averments, in brief, are as follows:** - The applicant is the plaintiff in the suit. The suit is filed for injunction simpliciter. The applicant is the absolute owner in possession and enjoyment of the plaint schedule property by virtue of the settlement deed No.3711/92 of Anchal SRO. The applicant is paying land tax under thandaper account No.14006. The plaint schedule property is lying within well defined boundaries and is covered by fencing on all sides. In 2024, the plaint schedule property was leased to Devasia to conduct the sale of metal, M-sand, and other crusher products. Accordingly, Devasia had obtained permission from the Geological Survey of India through the Senior Geologist and also obtained all necessary licenses from the panchayath and the Department of Mining and Geology. All these licenses were given after due inspection of plaint schedule property and based on the sketch of plaint schedule property. To protect the crusher products, the tenant has erected temporary structures on the plaint schedule property. On 01/05/2025, the tenant informed the applicant that the defendants, along with some persons, had attempted to trespass into the plaint schedule property and they put some flags and banners in the plaint schedule property. The defendants have no right to do so. The applicant is permanently residing at Thiruvananthapuram, and the applicant apprehends that the defendants may again trespass into the plaint schedule property. Now it is reliably learnt that the defendants are taking hasty preparations to trespass upon the plaint schedule property. The applicant has a strong prima facie case. Balance of

convenience is in her favour. If this application is not allowed, it will cause irreparable injury and hardship to the applicant. Hence, this application.

3. **The respondents filed objection contending the following:** - The application is not maintainable either in law or on facts. The petitioner has approached this court by suppressing material facts and with ulterior motives. The petition schedule property is not identifiable, and its boundary description, extent, etc, is false and incorrect. The property belonging to Anugoor No.799 Sreekrishna Vilasam NSS Karayogam, Alanchery has been maliciously included in the plaint schedule with the intention to encroach upon it. There is no cause of action for filing this petition, and the averments made by the petitioner are false and without bona fides. A boundary dispute between the petitioner and Anugoor No. 799 Sreekrishna Vilasam NSS Karayogam, Alanchery, has been ongoing for several months, particularly since the resurvey. The property of Anugoor No.799 Sreekrishna Vilasam NSS Karayogam, Alanchery, lies on the south-east side of the petitioner's property, and both properties were clearly demarcated with boundary stones. Recently, to facilitate construction on the property of Karayogam, a garden net was installed along the boundary with the petition schedule property on April 26, 2025, as a building material storage unit was functioning on the petitioner's property. It is false to state that the respondents trespassed upon the plaint schedule property and put some flags and banners in the plaint schedule property. The respondents are elected members of the governing council of

Anugoor No.799 Sreekrishna Vilasam NSS Karayogam, Alanchery, a fact the petitioner is well aware of. The respondents have attended meetings with revenue officials and a mediation talk held at the petitioner's residence in Trivandrum to resolve the dispute. After the resurvey, the total extent of the property was found to be significantly less than what is stated in the title document of the applicant. However, the petitioner was not amenable to an amicable settlement regarding the extent of the property claimed by the petitioner and the NSS Karayogam. Subsequently, after giving due notice to the applicant, the boundary stones were refixed. The petitioner leased their property to Olive Traders, Alanchery. The property NSS Karayogam and that of the petitioner were then lying as a compact plot. The proprietor of Olive Traders approached the NSS Karayogam and sought permission to install fencing on the eastern and northern sides of the NSS Karayogam's property to safeguard their building materials. This permission was granted, and the fencing was subsequently installed. The respondents are not aware of any paperwork done by the tenant of the applicant. Any documents created or executed between the petitioner and her tenant are not binding on the respondents or the rights of NSS Karayogam. The property of NSS Karayogam is lying on the south-east side of the property of the petitioner. Therefore, it is not possible for the petition schedule property to have the public road on its eastern boundary line as a whole. The landed property, measuring 6 Ares and 7 square meters in Survey No. 562/24-42-A, belongs to Sri. Krishna Vilasam

Aikya Sangham Eroor. This property was dedicated to Anugoor No.799 Sreekrishna Vilasam NSS Karayogam, Alanchery in 1934. Since then, Anugoor No.799 Sreekrishna Vilasam NSS Karayogam, Alanchery has been in absolute possession, ownership, and enjoyment of this property. Mutation has been effected, and land tax is remitted under BTR account No. 1046 of Eroor village. The petition schedule property originally belonged to the petitioner's family. The aforementioned property measuring 6 Ares 7 square meters (Survey No. 562/24-42-A) was transferred to M/s Sreekrishna Vilasam Aikya Sangham Yeroor through its president, Mr. Parameswaran Nair Narayanan Nair. Another property was also purchased by M/s Sreekrishna Vilasam Aikya Sangham Yeroor through its president, where a temple is now constructed. In 1936, Anugoor No.799 Sreekrishna Vilasam NSS Karayogam, Alanchery was formed, and Sree Krishna Vilasam Aikya Sangham merged with Anugoor No.799 Sreekrishna Vilasam NSS Karayogam, Alanchery. All its properties, including the 6 Ares 7 square meter property, were handed over to NSS Karayogam. The Sree Krishna Vilasam Aikya Sangham was registered with NSS in the year 1936, and its assets were shown as Rs.200/-, representing the Sangham. The office bearers of the Sreekrishna Vilasam Aikya Sangham, including Parameswaran Nair, later became the office bearers of the Anugoor No.799 Sreekrishna Vilasam NSS Karayogam, Alanchery. NSS Karayogam No.799 is in absolute ownership, possession, and enjoyment of the said property. The property of Anugoor No. 799 Sreekrishna Vilasam NSS

Karayogam, Alanchery, is designated for the construction of a Smrithi Mandapam. This memorial will commemorate the visit of Sri. Mannathu Padmanabhan on 25/01/1962. NSS Karayogam has constructed a shed, installed its flag and name board on this property, and a photo of Sri. Mannathu Padmanabhan is present in the shed. On important dates, members offer a floral tribute to the photo of Sri. Mannathu Padmanabhan. The petitioner has fully suppressed all the above material facts from this court and filed this suit, as well as the temporary injunction application, to test whether the process of law can be misused to grab the property of NSS Karayogam. The petitioner has no prima facie case. The balance of convenience unequivocally favors the respondents. If an order of temporary injunction is passed, the respondents will suffer irreparable loss and injury that cannot be compensated in terms of money. The respondents are law-abiding citizens and have no intention to trespass on the petitioner's property, nor have they ever attempted to do so. The respondents 1 to 4 has not done any acts as alleged. The respondents have no property adjacent to the property of the applicant. The respondents have no personal animosity with the applicant. The respondents were dragged into this litigation without any just cause. Thus the suit is bad for mis-joinder of parties. The suit as well as the above petition is not maintainable for non-joinder of necessary parties. Anugoor No.799 Sreekrishna Vilasam NSS Karayogam, Alanchery is a necessary and proper party to the suit. Hence this application is liable to be dismissed with costs.

4. From the applicant's side, Exts. A1 to A9 were marked. From the side of the respondents Exts. B1 to B8 were marked. Ext. C1 series was also marked.
5. Heard both sides and perused all the available records.
6. The following points were raised for consideration: -
 - 1) Whether the applicant has a prima face case?
 - 2) Whether the balance of convenience is in favour of the applicants, and whether the denial of the injunction will cause irreparable injury and hardships to the applicants?
 - 3) Relief and costs?
7. **Point Nos. 1 to 3:** These points are considered together for convenience, brevity, and to avoid repetition of facts. The learned counsel for the applicant argued that the application is to be allowed in the interest of justice. According to the applicant, the plaint schedule property absolutely belongs to her by virtue of the settlement deed No. 3711/1992 of Anchal SRO. The learned counsel for the applicant argued that the plaint schedule property is well defined and has now been leased out to a tenant to conduct the sale of metal, M-sand, and other crusher products. According to the applicant, the respondents are now attempting to trespass upon the plaint schedule property without any legal right, and hence the applicant prayed for granting an order of temporary injunction against the respondents. On the other hand, the learned counsel for the respondents contended that the plaint schedule property is not identifiable and the property belonging to NSS Karayogam has been

maliciously included in the petition schedule with the intention to encroach upon the property of NSS Karayogam. According to the respondents, there is a boundary dispute between the applicant and the NSS Karayogam since resurvey. It was contended that the applicant approached this court with unclean hands, and hence, the respondents prayed for dismissing the application.

8. To substantiate the case of the applicant, applicant produced the settlement deed No.3711/1992, the original tax receipt dated 05.04.2025, the photocopies of the license of Devasia, the tenant of the applicant, original lease deed dated 07.04.2025 to evidence the fact that the petition schedule property was leased out to Devasia, a copy of the license agreement dated 04.04.2023 between the applicant and Devasia, a copy of an agreement dated 09.04.2024 between the applicant and Devasia, a copy of the location sketch of plaint schedule property, a copy of the reply obtained from Eroor Village Office, and a copy of sale deed number. 1856/1955.

9. To substantiate the case of the respondents. The respondents produced a land tax receipt dated 04.04.2024, a land tax receipt dated 22.04.2025, a possession certificate dated 24.10.2024, copies of minutes, and a copy of the notice dated 25.01.1962.

10. The learned counsel for the applicant relied on the decision of Hon'ble Apex Court in Maria Margarida Sequeria Fernandez and others vs Erasmo Jade Sequeria through LRs reported in 2012 AIR SC 1727, the decision of

Hon'ble Madras High Court in Poochammal v. Karuppasamy Nayakar reported in AIR Online 2019 Madras 1093, the decision of the Hon'ble Apex Court in Ananthulla Sudhakar v. P. Buchi Reddy reported in AIR 2008 SC 2033, the Hon'ble Apex Court in Union of India v. Vasavi Cooperative Housing Society Limited reported in 2014 1 KLT SN 55, the Hon'ble High Court of Kerala in Vishram alias Prasad Govekar and Ors. v. Sudesh Govekar (D) By Lrs. Ors. reported in AIR 2017 SC 583 argued that plaintiff and argued that applicants through the documentary evidence adduced before the court successfully proved that there is a prima facie case in her favour and hence prayed for granting an injunction in favour of the applicants.

11. The learned counsel for the respondent relied on the decision of Hon'ble High Court of Kerala in SR Telecom Infrastructure Private Limited v. Molly Wilson reported in 2011 Supreme Online KER 2177 and argued that as the NSS Karayogam has not been made a party to the proceedings, an injunction cannot be granted against a party. who is not part of the legal proceedings.

12. According to the applicant, the plaint schedule property is well defined, and is in the absolute ownership and possession of the applicant. The present application is filed, alleging that the respondents are attempting to trespass upon the plaint schedule property, for which they have no right to do so. On the other hand, the contention of the respondents is that there exists a boundary dispute between the petition schedule property and the property of NSS Karayogam since re-survey and several settlement talks were done. There is no

dispute to the fact that the plaint schedule property was leased out to the tenant to conduct a shop to sell crushed products. The respondents also admitted the same. Hence, it can be seen that the tenant is in the possession of the plaint schedule property as authorized by the applicant. The contention of the respondents is that the property of the NSS Karayogam has also been scheduled as the plaint schedule property with the intention to encroach upon the property of the respondents. It is to be noted that to find out the truth of that contention, a survey commission application is highly essential. Now, the only thing to be considered is whether there is any prima facie case in favour of the applicant.

13. It is to be noted that the applicant produced her title deed before the court, the original tax receipts, the lease agreement, the license agreement created between the applicant and her tenant, the license of the applicant's tenant to conduct a shop of crusher products in the petition schedule property. The documents produced from the side of the applicant substantiate her case.

14. The advocate commissioner deputed from the court visited the petition schedule property and reported the fact that the petition schedule property is well defined. The advocate commissioner has clearly noted down the boundaries of the plaint schedule property and reported that on the eastern side of the plaint schedule property, a board of NSS Karayogam is seen affixed, and a flag of the NSS Karayogam is also shown. The advocate commissioner reported that on the eastern side of the plaint schedule property, Alanchery-

Channapetta Public Road is situated. On the eastern side, metal sheets have been used as a boundary. On the western side of plaint schedule property there is rubble basement separating the properties. Metal sheets are also used above the foundation as a boundary on the northern side of plaint schedule property. There are a basement and a mud wall separating the adjoining properties on the southern side of plaint schedule property. Metal sheets are also used as a boundary. From the commission report it can be seen that the petition schedule property is well defined and a Crusher shop room in the name of Olive Traders has been functioning therein.

15. From the documents produced by the respondents, it is clear that there existed some disputes between the NSS Karayogam and the present applicant, and as per the minutes produced, a decision was taken for a settlement talk at Thiruvananthapuram with the applicant. But the subsequent developments on that aspect have not been made clear. As per Exhibit C1 series, it can be seen that the plaint schedule property is well defined. From the objection filed by the respondents itself, it can be seen that the dispute between the applicant and the respondents was settled, and the boundary was re-fixed. The respondents do not have a case that the applicant or the respondents removed the re-fixed boundary stones.

16. The learned counsel for the respondent contended that the petition is not maintainable as the NSS Karayogam is not made a party to the suit or the proceedings. The applicant's explanation was that the respondents were trying

to encroach upon the property, and hence, the suit was filed against them. It is to be seen that the suit is filed seeking an injunction simpliciter, and filed against the persons who are alleged to have trespassed upon the plaint schedule property. Hence, it cannot be considered that fatal.

17. Now the applicant has approached this court seeking the relief of temporary injunction against trespass. From the documents adduced from the side of the petitioner, this court is of the view that the petitioner succeeded in proving a prima facie case in her favour. It can be seen that the tenant obtained licenses from various authorities and is conducting a shop therein. If the order of injunction is denied, it would cause irreparable injury and hardships to the applicant, as that would affect the functioning of the shop. The balance of convenience is also in her favour. Considering all these things, this Court is of the view that the applicant is entitled to get an order of temporary injunction as prayed for. Thus, all the points are answered accordingly.

In the result: This application is allowed. The respondents are restrained from trespassing into the plaint schedule property, from putting up any constructions, flags, banner and from committing any mischief and from disturbing the peaceful enjoyment of the plaint schedule property by the applicant, till the disposal of the suit. There shall be no order as to costs.

Pronounced in open court on this the 10th day of July 2025.

Sd/-
Civil Judge (Junior Division)

Appendix:

Exhibits for the plaintiffs

A1	03.12.1992	Photocopy of settlement deed no.3711/1992.
A2	05.04.2025	Property tax receipt vide no.KL02060902969/25.
A3	02.05.2023	Copy of license given to Sri. Devasia. D.
A4	07.04.2025	Lease agreement between Vijayakumari Eswaripilla and D. Devasya.
A5	04.04.2023	Copy of License agreement between Vijayakumari Eswari pilla and D. Devasya.
A6	09.04.2024	Copy of lease agreement between Vijayakumari Eswari pilla and D. Devasya
A7		Copy of location sketch of plaint schedule property.
A8	09.05.2025	Copy of reply obtained from Eroor Village office through RTI.
A9	09.06.1955	Copy of sale deed 1856.

Exhibits for the defendants

B1	04.04.2024	Land tax receipt dated 04.04.2024.
B2	22.04.2025	Land tax receipt.
B3	24.10.2024	Copy of possession certificate.
B4		Copy of minutes.
B5		Copy of minutes.
B6		Copy of minutes.
B7		Copy of minutes.
B8	25.01.1962	Copy of notice.

Court Exhibits

C1 Report submitted by Advocate commissioner
Jasmine. M.

C1(a) 08.05.2023 Mahazar submitted by Advocate commissioner
Jasmine. M.

Id/-
Civil Judge (Junior Division)

//True Copy//

Typed by : Gokul S

Compared by :

CIVIL JUDGE (Junior Division)