

**IN THE COURT OF THE MUNSIFF OF KUTHUPARAMBA**

Present:- Smt. Athira Nair, Munsiff.

Tuesday, the 3<sup>rd</sup> day of March, 2026/ 12<sup>th</sup> Phalguna, 1947.

**IA No.1/2026 IN OS 15 OF 2018.**

1.	Karakkat Eliyamma Chakko, W/o.Chako(Late), Aged 70 years, No occupation, Karakkat House, Ayyamkunu amsom and desom, (PO) Kiliyanthara, Iritty Taluk, Pin 670 706.	] ] ] ] ] ] ]	Petitioners/ Plaintiffs
2.	Joseph Chakko Karakkat, S/o.Chakko (Late), Aged 45 years, Driver, Karakkat House, Ayyamkunnu amsom and desom, (PO) Kiliyanthara, Iritty Taluk, Pin 670 706.	] ] ] ] ]	
Vs.			
1.	Vattakunnel Babu, Aged about 53 years, Vattakunnel House, Coolie, Ayyamkunnu amsom and desom, (PO) Kiliyanthara, Iritty Taluk, Pin 670 706.	] ] ] ]	Respondents/ Defendants
2.	The District Collector, Kannur, (PO) Kannur.	] ]	
3.	The Tahasildar, Iritty, Iritty Taluk, (PO) Iritty, Pin 670 703.	] ]	
4.	The Village Officer, Ayyamkunnu Village, (PO) Angadikkadavu, Pin 670 706.	] ]	

This petition coming on 27<sup>th</sup> day of February, 2026 for final hearing before me in the presence of S/Sri.K.V.Pavithran, A.P.Manojkumar and Jithin S. Sundaran, Advocates for the Petitioners ; of Sri.Hameed. K, Advocate for the Respondent No.1 ; Adv. Aswathi.E, Government Pleader for the Respondent No. 2, 3 and 4 and having stood over for consideration till this day; the court passed the following:-

## **ORDER**

This petition is filed seeking to set aside the report and plan submitted by the Advocate Commissioner and to obtain a fresh report.

2. **Petitioner's case:-** The petitioner's grievance is that the Commissioner has failed to properly identify the property in dispute. The suit itself is one for a declaration. The Commissioner filed his report on 18.12.2025, stating that he had identified the property with reference to the plan produced. The petitioner contends that the plaintiff had not produced any plan, and instead, defendant No. 2 had produced the plan. The Commissioner further reported that he could not identify the property as per the plan dated 15.11.1994 prepared by the Village Officer, Ayyamkunnu. That plan was prepared prior to the Government taking possession of the property. In the proceedings of possession, the Tahsildar, Thalassery, described the property with boundaries, showing the eastern boundary as the road and the plaintiff's property. However, in Plans Nos. 2 and 3, the property of the plaintiff's predecessor is shown on the western boundary. According to the petitioner, the Commissioner failed to notice this inconsistency. It is further argued that Plan Nos. 2 and 3 were prepared without verifying the boundary descriptions given by the Tahsildar, and the Taluk Surveyor wrongly justified them. The petitioner insists that the Commissioner ought to have identified the property as per the boundary descriptions in the plan prepared under Rule 19(2). On these grounds, the petition seeks to remit the Commissioner's report and plan.

3. **Respondents' case:-** Respondent No. 1 filed a counter, while Respondent No. 2 did not. Respondent No. 1 contends that the petition is not maintainable. It is pointed out that the Commissioner never

reported that he identified the property as per the plaintiff's plan. The Commissioner categorically stated that the Village Officer's plan was only a location sketch based on FMB, prepared merely to point out the spot, and that the final plan was prepared later for the distribution of surplus land. It is incorrect to allege that Plan Nos. 2 and 3 were prepared without verifying boundary descriptions. There is no allegation against the Commissioner, nor any circumstance warranting setting aside his report. The Commissioner has already identified the surplus land taken by the Government; hence, no fresh plan or report is required. Therefore, the petition is liable to be dismissed.

4. From the petitioner's side, PW1 was examined and Exhibits C1 to C8 were marked. From the respondent's side, no evidence was adduced. The matter was heard in detail.

5. On careful consideration, it is evident that the plan relied upon by the petitioner is merely a sketch prepared by the Village Officer to identify the location, not based on proper field measurements. It was not sufficient for exact identification. There was no prayer in the petition to identify the property as per the Tahsildar's schedule. On perusal of Exhibit C8 plan, it is revealed that the surveyor incorporated the location sketch and measurements. It is true that in Plan No. 2 of Exhibit C8, the road is shown on the western side, whereas in Exhibit C3, the plan shows the road on the eastern side. The petitioner alleges that this discrepancy indicates an attempt to encroach on her property on the western side of the road. However, this Court finds that the difference is solely due to a mistake in depicting the polar directions in Plan No. 2. If the plan is correctly oriented, the property matches the Commissioner's identification. The boundaries and measurements

correspond. When the question of the orientation mistake was put to the counsel for the petitioner, he responded that if the road shown on the western side in plan 2 were shown on the eastern side, the entire boundary description would fail. But this Court's verification revealed that if Plan No. 2 is rotated approximately 180 degrees to align the road on the eastern side, the measurements and property identification correspond. The error lies not in identifying the property but only in the sketch's orientation. Plan No. 1, prepared by the Village Officer, shows the road on the eastern side, consistent with the Commissioner's identification. Therefore, the Commissioner's report cannot be faulted. The property has been correctly identified, and the mistake resides solely in the polar direction shown in Plan No. 2 of Exhibit C8, which is the Village Officer's plan. The Commissioner cannot be expected to replot the property based on the erroneous sketch, nor was there any prayer to identify it according to the Tahsildar's schedule. The Commissioner has fulfilled his duty by inspecting the property with the Taluk Surveyor and submitting a report based on the available records.

6. This Court is satisfied that the Commissioner has properly identified the property, and the discrepancy pointed out is only an error in the orientation of the Village Officer's sketch. No grounds exist to set aside the Commissioner's report.

**In the result**, the petition is dismissed. Parties shall bear their own costs.

(Dictated through Adalat-AI, arranged in proper form by Confidential Assistant, corrected and pronounced by me in open court on this day, the 3<sup>rd</sup> day of March 2026).

Sd/-  
**MUNSIFF**

**Appendix:-****Petitioners' Witnesses:-**

PW1 : Sri. Narayanan Nambiar, Advocate Commissioner.

**Petitioners' Exhibits:-** Nil.**Respondent's Witnesses:-** Nil.**Respondent's Exhibits:-** Nil.**Court Exhibits:-**

C1.	22-02-2018	Report submitted by Sri. K.M. Surendran, Advocate commissioner in the above matter.
C2.	22-02-2018	Plan submitted by Sri. K.M. Surendran, Advocate commissioner in the above matter.
C3.	18-06-2025	Revised Report submitted by Sri. K.M. Surendran, Advocate commissioner in the above matter.
C4.	18-06-2025	Plan submitted by Sri. K.M. Surendran, Advocate commissioner in the above matter.
C5.	07-10-2025	Revised Report submitted by Sri. K.M. Surendran, Advocate commissioner in the above matter.
C6.	07-10-2025	Plan submitted by Sri. K.M. Surendran, Advocate commissioner in the above matter.
C7.	05-01-2026	Revised Report (forth report) submitted by Sri. K.M. Surendran, Advocate commissioner in the above matter.
C8.	05-01-2026	Plan submitted by Sri. K.M. Surendran, Advocate commissioner in the above matter.

*kps.*

Sd/-  
**MUNSIFF**

**Fair/Copy /Carbon copy of  
Order in IA No. 1/2026  
in OS No. 15 OF 2018.  
Dated : 03-03-2026.**