

**IN THE COURT OF ADDL. DISTRICT JUDGE -1
KOTTAYAM**

Present:- Smt. Lilly K, Addl. District Judge-I

Thursday the 23rd Day of April, 2026
3rd Vaisakha, 1948

I.A. No.1/2025 in CMA 32/2024

**Petitioner/
Appellant:-**

Roby Manuel @ Roby Vettoor,
aged 57, S/o. P.V Mani, Vettoor
House, Ettumanoor P.O.,
Kottayam Taluk, Kottayam District
represented by his wife
Magdalene Roby,
aged 58, Vettoor House,
Ettumanoor P.O., Kottayam Taluk,
Kottayam District.

***(By Adv. Joseph Abraham &
Adv. Arun S Nair)***

**Respondent/
Defendent:-**

Suresh Babu Kurian,
aged 58 years, S/o. Kurian,
Vechurett House, (Alphonsa
Nagar), Ettumanoor P.O.,
Ettumanoor Village, Kottayam
Taluk, Kottayam District.

***By Adv.C.L.Joseph &
Adv. James K Peter***

Petition filed under Order XLIII Rule2 read with Or.XLI,
Rule 5 and Sec. 151 of Code of Civil Procedure .

This petition having been coming up for consideration before
this Court on 23.04.2026 and the court on the same day passed
the following :-

ORDER

Application filed under Order No.XLIII Rule 1 r/w Order No. XLI Rule 5 and Section 151 of CPC.

2. Petitioner is the appellant, who filed the suit for injunction. IA No.3/2023, application for temporary injunction was dismissed and challenging the same, the appeal was filed. After the passing of the impugned order in IA No. 3/2023, plaintiff obtained a report dated 15.10.2024 from Pollution Control Board, decision by the Adalath Samithi dated 24.08.2024, letter dated 04.11.2024 issued by the Secretary, Ettumanoor Municipality and Order dated 13.05.2024 obtained under Right to Information Act, which are necessary for the proper adjudication of the matter in issue in the suit and appeal and hence the application for receiving additional documents.

3. Respondent/defendant filed objection by way of counter affidavit and contended that the respondent is conducting business in the property on obtaining license. The additional

documents produced will not help the Court to decide the matter in dispute and the additional documents are not sufficient to set aside the order of the trial Court. The documents can be admitted only during trial and defendant sought for dismissal of the application.

4. The only point to be considered is:-

Whether the additional documents can be received in appeal?

5. The application was heard along with the Civil Miscellaneous Appeal. The application for temporary injunction was dismissed by the trial Court by finding that there were no records to show that the water in Item No.2 well was tested by the plaintiff/appellant to obtain Ext.A2 report. The additional documents produced reveal that all the documents were obtained after the disposal of the IA No.3/2023 by the trial Court. Hence, the appellant/plaintiff was not in a position to produce the additional documents before the trial Court. Considering the matter in issue, where the plaintiff alleges pollution to the drinking water in Item No.2 well due to the construction of cesspool and pollution from the latrine in Item No.3 property, belonged to the

defendant, it is found that the subsequent documents produced are essential for deciding the matter in dispute and hence the same can be received as additional documents in the appeal. Hence the application is allowed.

In the result, the application is allowed. The additional documents produced are received in appeal. The documents produced in IA No.1/2025 shall be transmitted along with the Trial Court Records, for the purpose of disposal of IA No.3/2023 afresh, by the trial Court.

Dictated to and typed by the Dictation Software, corrected and pronounced by me in open Court, on this the 23rd day of April, 2026.

Sd/-
Lilly K.
Addl. District Judge-I
Kottayam

APPENDIX:- NIL

Id/-
Addl. District Judge -I

//True Copy//

Copied by:
Compared by:

Sd/-
Lilly K.
Addl. District Judge-I
Kottayam