

IN THE COURT OF THE MUNSIFF, CHANGANACHERRY

Present :- Smt. Sarica A.R, Munsiff

Tuesday 14th day of October, 2025
22nd Aswina, 1947

I.A. No. 1/2025 in O.S. No. 74 /2025

Petitioner/Plaintiff :-

Sheeba Chandran, 56 years, W/o Narayanan,
Sheejasadanam, Vazhappally P.O, Vazhappally West Village,
Changanachery Taluk, Kottayam District.

By Adv. P Anil Kumar

Counter Petitioners/Defendants :-

Chandran, 65 years, Sheejasadanam, Vazhappally P.o,
Vazhappally West Village, Changanachery Taluk,
Kottayam District.

By Adv.P.O John

This petition is coming up for consideration before this Court on 14.10.2025 and the court on the same day passed the following :-

ORDER

The petition filed for temporary injunction.

2) Averments in the petition in brief are as follows:-
Petitioner is the plaintiff in the suit. The suit is for permanent prohibitory injunction. Item No.1 property devolved upon the plaintiff by virtue of Sale Deed No. 586 of 1994 has an extent of 1 Are. The defendant is the husband of the plaintiff. Due to the

marital disputes between the parties MC 49/23 was filed before JFMC, Changanacherry and the matter was settled in mediation. As per the Sale Deed, the plaint schedule property had an extent of 2 Ares of which 1 Are including the building therein was transferred to the defendant by virtue of Settlement Deed No.2119 of 2007. As per the terms of the mediation the eastern part of the plaint schedule property including the residential building was transferred to the petitioner and the western portion was transferred to the respondent. Thereafter the residential portion of the parties were separated along with severing of the electric connection and attachments from the plaintiffs' share of property protruding to the defendants' share. Thereafter utilizing the absence of the plaintiff who was with her mother for treatment at Kottayam Medical College, the defendant trespassed into the plaintiff's share removed the ceiling board partitioning the property and attempted to construct a boundary using cement and bricks and attempted which was prevented by the timely intervention of the petitioner. The defendant also removed the asbestos sheet on the roofing which prevented leakage of water in the plaint schedule property. The defendant has no right to do so. Hence this petition.

3) The defendant/respondent filed objection stating that the plaint schedule property was not purchased by the petitioner. This property was purchased by the defendant in the name of the plaintiff for the reason that the purchase of assets in the name of the defendant who is a KSRTC driver would later render the property liable for any mishaps. The plaintiff had no means of income for purchase of the plaint schedule property. After the purchase of the plaint schedule property the residence therein was constructed by the defendant who availed SBI housing loan for an amount of 12,00,000/-. Due to issues between the parties, the matter was mediated by the Changanacherry Anandhashramam SNDP members, after which 2.5 cents of the 5 cent building was transferred to the defendant by virtue of Settlement Deed No.2119 of 2007. Thereafter in MC 49 of 2023, the plaint schedule property including the residential building was measured by the surveyor which was acknowledged and accepted by both the parties and 1 Are of the plaint schedule property was transferred to the plaintiff whereas 1 Are was transferred to the defendant. The property of the parties were separated by plywood sheet installed by the defendant. The plaintiff was an occasional resident in the plaint schedule property. The 1st son of the parties had threatened the defendant that this plywood

wall would be demolished due to which a complaint was filed at Changanacherry Police Station and it was settled in the police station that the plywood sheet would be replaced by a cement wall. The same was necessary for protecting the life and property of the defendant. The averments of the plaintiff against the defendant are false. Hence this petition ought to be dismissed.

4) Heard both sides.

5) The points which arose for consideration are: -

- 1) Is there a prima facie case in favour of the petitioner?
- 2) Will the petitioner sustain irreparable injury if an order in this IA has not been granted?
- 3) Whether the balance of convenience tilts in the petitioner's favour?
- 4) Can the petition be allowed?
- 5) Order as to costs ?

6) **Points 1 to 5 :-** So far as a petition for temporary injunction is concerned the 3 points that are to be considered are with respect to prima facie case, balance of convenience and irreparable injury. On perusal of the averments by both sides it is evident that there is a prima facie case. While the petitioner avers that the respondent trespassed into her share

of the property, the respondent submits that the petitioner's son attempted to attack him.

7) The 2nd factor is with respect to irreparable injury. On perusal of the commission report, on one side while it is stated in the 2nd point that the plaintiff does not appear to be residing in the plaint schedule property, the 3rd point shows that there is no asbestos sheet above the plaintiff's portion to prevent leakage during Monsoons whereas the same is seen installed on the defendant's property. In the 4th point it is stated that the construction of the cement wall would obstruct the sit out portion in the plaintiff's property. Now from the pleadings of the parties it is evident that the matter was already discussed and settled in MC 49/23. The property was already identified and measured with a plan clearly pointing out the 1 Ares of property allotted to each party. The construction of a boundary wall ought to be based on the undisputed plan accepted in MC 49/23.

8) At this juncture the fact of ownership of the defendant over the plaint schedule property or income of the plaintiff are not matters that are to be considered. The only point that is to be determined is whether the boundary wall is constructed as per the plan in MC 49/23. In this aspect irreparable injury and

in turn the balance of convenience tilts in favor of the petitioner. The suit property ought to be preserved until conclusion of trial.

9) As aforementioned the only matter that is to be adjudicated is with respect to the construction of boundary wall in the already determined boundary line as per the survey plan in MC 49/23 which is to be done in the supervision of the court to prevent any further issues between the parties. For this reason the injunction is granted as follows:-

The respondent is restrained from trespassing, making unlawful constructions or committing mischief and waste on the petitioner's property located and identified for the plaintiff as per the plan in MC 49/23 until further orders.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced by me in open court on this the 14th day of October, 2025.)

Sarica A.R

MUNSIFF

APPENDIX Nil

**Sd/-
MUNSIFF**

Copied by:

Compared by:

