

IN THE COURT OF THE MUNSIF, TIRUR
PRESENT: Sri. SANU C., MUNSIF.
Saturday, the 01st day of November, 2025
the 10th day of Karthika, 1947
INTERLOCUTORY APPLICATION No. 05 OF 2025 IN
ORIGINAL SUIT No.196 OF 1994

Between:

1. Karakkadan Muhammed (Died),
2. Wife: Ayishu (Died),
3. Children: Fathima Suhara,
4. Subaida,
5. Nafeesa,
6. Shereef,
7. Kadeeja,
8. Hameed,

(Petitioners are residing at Moorkkanad amsom,
Vengad Desom, Tirur Taluk).

Petitioners
Plaintiffs

And:

Punnekkatt Vadakkekara Ponnann's children:

1. Krishnan (Died),
2. Ponnann (Died),
3. Velayudhan(Died),
4. Narayanan,
5. Gopalan,

Punnekkatt Vadakkekara Krishnan's children:

6. Ponvally,
7. Devayani,
8. Saraswathi
9. Manikandan,

10. Rajan,
11. Madhavi
12. Sanil
13. Kumar
14. Mohanan,

Punnekkatt Vadakkekara Gopalan's wife:

15. Karthiayani,
16. Children: Biju,
17. Vineesh

Respondents
Defendants

18. Vishnu
 19. Manikandan, 57 years,
 20. Chandran, 55 years,
 21. Sasidharan, 51 years,
 22. Santha, 53 years,
 (Respondents No.1 to 22 are residing at
 Vadakkekara House, Thozhuvanoor amsom
 desom, Tirur Taluk).
 Vadakkekara Velayudhan's children:
 23. Girija, 50 years,
 Palathingal House, Puzhakkattiri,
 24. Pushpalatha, 58 years,
 Kuzhamparambil House, Chemmalassery,
 25. Vanaja, 56 years, Panekkad House, Muthur,
 26. Shaija, 44 years,
 Kalappara House, Muliakurzhi, Pattikkad.
 27. Bindu, 42 years,
 Kunnath House, Chemmad, Tirurangadi,
 28. Shaijumon, 40 years,
 Vadkkekara House, Kavumpuram, Valanchery.
 29. Raveendranathan, 38 years,
 Vadakkekara House, Kavumpuram, Valanchery.
- Respondents
Defendants

This petition having been finally heard on 28-10-2025 before me in the presence of Sri.M.K.Moosakutty, Advocate for the petitioners and of Sri.C.Nandakumar, Advocate for the respondents No.1 to 10, 15 to 29 and of Smt.Ramya is appointed as Court guardian for the respondents No.13, 14 and the respondents No.1, 2, 3, 5 reported died and the respondents No.11 to 14 deleted from party array and the Court on 01-11-2025 passed the following;

ORDER

Application filed under Order VI, Rule 17 of CPC to amend the plaint.

2. **Petition averments in brief are as follows:-** Petitioner is the 8th plaintiff in the suit. The plaint schedule property belongs only to the plaintiff. The suit is one for declaration of title and fixation of boundaries. The 2nd defendant

filed written statement and none of the things stated in the written statement is correct. The advocate commissioner has filed a report in the above case on 27.08.2025. According to the report of the commissioner, the plaint need to be amended. The commissioner has reported that 3.30 cents of property has been acquired from the plaint schedule property for the Mudal-Kanjipura bypass. It is essential to amend the above plaint in accordance with the commission report. It is essential to amend the plaint for a fair and accurate decision of the case. No prejudice will be caused to the defendants if the suit is amended. The nature of the suit will not be changed. The cause of action also will not be changed. If the amendment is not allowed, petitioner will be put to serious loss and hardship. Hence the application to amend the plaint. Some minor amendments are to be carried out in the plaint. Following amendments are highly necessary.

- (a) In the column of the description in the plaint A schedule, “റീസ 211/2,3” should be deleted and after the word “1 ഏക്കർ”, should be added the sentence “ 27-08-2025 ന് ബോധിപ്പിച്ച കമ്മീഷണറുടെ റിപ്പോർട്ടിൽ BCDEB എന്ന് അടയാളപ്പെടുത്തി കാണിച്ചതിൽ നിന്നും 10 സെന്റ് സ്ഥലം കഴിച്ച് ബാക്കി സ്ഥലം, റീസ 211/3”.
- (b) In the column of description in the plaint B schedule, 'വടക്ക് ഭാഗം സ്ഥലം റീസ 211/3' should be deleted and replaced with “27-8-2025 ന് ബോധിപ്പിച്ച കമ്മീഷണറുടെ റിപ്പോർട്ടിൽ HCFGH എന്ന് അടയാളപ്പെടുത്തി കാണിച്ച സ്ഥലം”.

4. Respondent No.9 filed counter statement for and on behalf of the other defendants also and contended that the petition is not maintainable in law. Respondent contended that the above said plaint schedule property are in the rightful possession of the respondents only. If the plaint is amended, the nature of the plaint itself will change. The survey number mentioned in the amendment petition does not belong to the plaint schedule property. It belongs to some other land. That land has no connection with this case. There is no sufficient cause to amend the plaint. Hence the petition is liable to be dismissed.

5. Heard both sides. Perused the records and affidavit.

6. The following point arise for consideration:-

1. Whether the petition is allowable?

7. **Point No.1:-** The question to be considered is whether the contentions sought to be incorporated in the plaint ought to have pleaded when the suit was filed and as to whether the amendment would alter the nature of the suit. The relief sought for is not a new plea or inconsistent with the earlier stand. The version of the petitioner is that the advocate commissioner has filed a report in the above case on 27.08.2025 and as per the commission report, 3.30 cents of property has been acquired from the plaint schedule property for the Mudal-Kanjipura bypass and according to the report of the commissioner, the plaint need to be amended. The learned counsel for the respondent argued that the survey number mentioned in the amendment petition does not belong to the plaint

schedule property, but rather to some other land, and that land has no connection with this case. The amendment sought for is necessary for determining the real question in controversy. The parties should not be compelled to adjudicate the same in another suit. No prejudice will be caused to the respondent, if the petition is allowed. The amendment sought for will not alter the nature of the suit. It is well settled law that as far as possible the court should avoid multiplicity of litigation. In **Shikharchand Jain v. Digamber Jain Praband Karini Sabha** **AIR 1974 (SC)** 1178, Hon'ble Supreme Court held that "it is open to a court to take notice of events which have happened after the institution of the suit and afford relief to the parties in the changed circumstance where it is shown that the relief claimed originally has:

- 1) by reason of subsequent change of circumstances become inappropriate, or
- 2) where it is necessary to take notice of the changed circumstances in order to shorten litigation, or
- 3) to do complete justice between the parties.

It is therefore the court is of the view that the amendment sought for is well within the scope of Order VI, Rule 17 and the parties should not be compelled for another round of litigation to adjudicate the matter. It will not alter the nature and character of suit.

In the result,

The petition is allowed, the petitioner is permitted to amend the plaint to incorporate the amendment sought for in the petition. Carry out amendment within 2 days. Serve copy of amended plaint to the respondents.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this the 01st day of November, 2025).

MUNSIFF

Typed by: Krishnakumari.V
Compared by: 1) 2)

Fair Order in IA.5/2025 in
OS 196/1994 Dated.01-11-2025
