

IN THE COURT OF THE MUNSIF, TIRUR
PRESENT: Sri. SANU C., MUNSIF.
Monday, the 12th day of January, 2026
the 22nd day of Pousha, 1947
INTERLOCUTORY APPLICATION No. 03 OF 2025 IN
ORIGINAL SUIT No.287 OF 2018

Between:

Moonnukandathil Sooppi's children:

1. Ismail,
2. Muhammed,
3. Ibrahim,
4. Mariyamu,
5. Sainaba,

W/o. Aboobacker Panakkal, Athavanad amsom desom,
Karippol P.O., Tirur Taluk.

Moonnukandathil Sooppi's wife:

6. Ayishummu,
(Petitioners No.1 to 4 and 6 are residing at
Ananthavoor amsom desom, Ananthavoor P.O.,
Tirur Taluk, Pin – 676301).

Petitioners
Defendants

And:

Moonnukandathil Saidalavi, 60 years,
S/o. Sooppi, Ananthavoor amsom desom,
Ananthavoor P.O., Tirur Taluk.

Respondent
Plaintiff

This petition having been finally heard on 08-01-2026 before me in the presence of Sri.M.A.M.Rafeek, Advocate for the petitioners and of Sri.S.Hariharan, Advocate for the respondent and the Court on 12-01-2026 passed the following;

ORDER

The above application is filed for framing additional issues.

2. Petition averments in brief are as follows:- Petitioner is the defendant No.1 in the above suit and filed this petition for and on behalf of the other defendants also. It is contended in paragraphs 3, 4 and 5 of the written statement

filed by the defendants that the above suit is not maintainable and the suit is barred by law of limitation. The issues were not framed as per the argument of the defendants. In the above circumstances, it is necessary to frame additional issues in the above suit for the just decision of the case. If the petition is not allowed the petitioner will be cause irreparable loss, injury and hardship. Hence the petition.

3. Respondent opposed the application and filed counter stating that the petition is not maintainable and there is no bonafide for the petition. Respondent contended that there is no need to frame an issue since the defendant has not stated any particulars other than the unfounded statement that the suit is not maintainable. The suit is not barred by law of limitation. There is no reasons to frame additional issues. Hence, the application liable to be dismissed.

4. Heard. Perused the records and affidavit.

5. The point that arise for determination, is as follows:-

I. Whether the petitioner is entitled to get relief, as prayed for?

6. The petition is filed by petitioner/defendant to frame the following additional issues:

1. Whether the suit is maintainable?

2. Whether the suit is barred by law of limitation?

The following issues were already framed in this suit as follows:

I. Is there any sustainable cause of action for the plaintiff to file the suit?

II. Is the document bearing No.100/2004 of SRO Codakkal liable to be set aside, as prayed for?

III. Whether the plaintiff is entitled to get a decree of permanent prohibitory injunction, as prayed for?

IV. Relief and cost.

7. It is pertinent to note that, the suit is one for canceling the gift cancellation deed bearing No.100/2004 of Codakkal SRO and consequential prohibitory injunction. The version of the petitioner is that the gift deed alleged in the plaint bearing No.3399/01 is a sham document. In order to avoid the difficulties in future, the father himself executed the impugned gift cancellation deed. The conveyance of gift is also not completed as the law mandates. Hence, the suit is not maintainable on that aspect and the limitation also pleaded.

7. It is relevant note that, the maintainability affects bar to the suit. It should be pleaded specifically on which ground or on what provision the suit is barred. An issue of maintainability also should be framed on the specific grounds. The mere framing of an issue, whether the suit is maintainable, is useless and adducing evidence on the issue will end up wastage of time and the same is not making any sense. The suit is only for cancellation of the impugned instruments. If the petitioner disputes the validity of any independent documents connected or not connected with the impugned documents the same has to be adjudicated in a proper course of law. Moreover, the pleadings of the petitioner/defendant is not

suffice to bar the suit in order to frame the issue on maintainability. In the aforesaid circumstances, this court is holding of the view that an issue on that aspect need not be framed. But, on the aspect of limitation, an issue also should be framed.

In the result, the IA is allowed in part and issue on the aspect of law of limitation is framed as follows;

I. Whether the suit is barred by law of limitation?

(Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court, this the 12th day of January, 2026.)

MUNSIFF.

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

Fair Order in IA 3/2025 in
OS 287/2018 Dated 12-01-2026

-