

IN THE COURT OF THE MUNSIFF-MAGISTRATE, PATTAMBI

Present:- Smt.Neema Noor Mohamed, Munsiff-Magistrate
Tuesday, the 17th day of February, 2026/28th Magha, 1947 S.E.

I A. 02/2026 (Sl.No.77/2026) IN

O S 11/2026

Between:-

Rafeek, Aged-38 years, : Petitioner
S/o.Muhammed Hussain, Plaintiff
Residing at Thachanadi Maithakkar House,
Puthukkode Village, Puthukkode Post,
Alathur Taluk, Palakkad District,

And :-

Asees.K, Aged-58 years, : Respondent
Residing at Kanichirakkal House, Defendant
Vavannur, Nagalassery Village,
Nagalassery Post, Pattambi Taluk,
Palakkad District.

I A. 06/2026 (Sl.No.117/2026) IN

O S 11/2026

Between:-

Asees.K, S/o.Muhammed, : Petitioner
Kanichirakkal House, Defendant
Nagalassery Village,
Nagalassery Amsom Desom,
Pattambi Taluk, Palakkad District.

And :-

Rafeek, S/o.Muhammed Hussain, : Respondent
Residing at Puthukkode Thachanadi- Plaintiff
Maithakkar House, Puthukkode Village,
Alathur Taluk, Palakkad District,

These petitions are coming on this day for final hearing before me in the presence of Abitha.P, Advocate for the petitioner and of Sri.Rajesh.V, Advocate for the respondent in IA. 02/2026 and Sri. Rajesh.V, Advocate for petitioner and of Abitha.P, Advocate for the respondent in IA.06/2026 and this court on the same day passed the following.

COMMON ORDER

Petition averments in IA 02/2026 in brief are as follows : The petitioner/plaintiff instituted the suit seeking permanent prohibitory injunction under agreement dated 01-01-2025 (marked as Exhibit A1 for reference), by which, according to him, the respondent/defendant permitted him to slaughter and remove approximately 1,200 rubber trees standing in the plaint schedule property for a period of four years, i.e., till 30-01-2029. The consideration fixed was Rs.2,500/- per tree, totalling Rs.30,00,000/-. It is the case of the petitioner that the said amount was paid through various bank transfers, and copies of transaction statements have been produced along with the application. The agreement further stipulates that no other standing timber shall be cut and that a machine shed shall be arranged by the respondent.

2. The respondent entered appearance and filed counter statement denying execution of Exhibit A1 and disputing the signature therein. According to him, no such agreement was executed and the monetary transactions relied upon by the petitioner relate to a personal loan transaction. The respondent has also produced title deed in support of his ownership and asserts that he is in possession of the property.

3. Petition averments in IA 06/2026 in brief are as follows : The petitioner/defendant is seeking interim prohibitory injunction restraining the petitioner from cutting or removing any rubber trees or extracting rubber latex, contending that he is the absolute owner and that no agreement as alleged in IA 02/2026 exist.

On the other hand respondent/plaintiff filed objection in strength of Ext.A1 (Above mentioned).

Points for Consideration

1. Whether the petitioner has established a prima facie case?
2. Whether the balance of convenience lies in favour of the petitioner?
3. Whether irreparable injury would be caused if injunction is refused?
4. Whether the respondent is entitled to an order of interim prohibitory injunction

restraining the petitioner absolutely?

4. **Points 1 to 4:** For the sake of brevity and convenience all points are considered together. It is well settled that while considering an application under Order XXXIX Rules 1 CPC, the Court is not expected to conduct a roving enquiry into disputed questions of fact or to finally adjudicate the rights of parties. The Court has only to see whether a prima facie case exists, whether the balance of convenience is in favour of the applicant, and whether irreparable injury would ensue in the absence of interim protection.

5. The petitioner's/plaintiff's claim is based on Exhibit A1 agreement dated 01-01-2025. The right asserted thereunder is one to enter upon the land of another and remove the produce of the soil, namely rubber trees. Such a right, if established, answers to the concept of profit à prendre, which is a recognised proprietary right enabling a person to take part of the natural produce from another's land.

6. Exhibit A1 has been produced. Copies of bank transaction statements showing transfer of substantial amounts to the respondent/defendant have also been placed on record. The explanation offered by the respondent/defendant that such transactions relate to a loan is a matter which requires evidence. An Advocate Commissioner was appointed and she reported vide commission report dated 09/02/2026 that there were visible signs of earlier slaughtering of rubber trees in the property and that buckets and tools were found therein. However, no recent cutting was noticed at the time of inspection. Further, the Advocate Commissioner's report noting signs of earlier slaughtering activity and presence of implements in the property lends prima facie corroboration to the petitioner's/plaintiff's case that rights under the agreement had commenced.

7. The respondent/defendant has denied execution and signature in Exhibit A1. However, such denial raises a serious triable issue which cannot be conclusively decided at this interlocutory stage without evidence, including proof of signature and examination of witnesses. At this stage, the Court is only to ascertain whether a substantial question requiring adjudication exists. On the materials produced, this Court is satisfied that the petitioner/plaintiff has established a prima facie case.

8. As regards balance of convenience, the agreement is admittedly time-bound till 30-01-2029. If the petitioner/plaintiff is completely restrained during pendency of the suit and ultimately succeeds, the contractual period may substantially lapse, rendering the decree

ineffective. On the other hand, permitting the petitioner/plaintiff to act strictly in accordance with Exhibit A1 would not divest the respondent/defendant of his ownership; it would only provisionally allow exercise of the alleged derivative right pending adjudication.

9. The injury likely to be caused to the petitioner/plaintiff, if interim protection is refused, cannot be adequately compensated in monetary terms, considering the fluctuating nature, maturity, and commercial value of rubber trees. Therefore, irreparable injury is also made out.

10. Coming to the application filed by the respondent/defendant seeking absolute restraint against the petitioner/plaintiff, it is true that the respondent/defendant has produced title deed and his ownership is not in dispute. However, ownership by itself does not preclude existence of a derivative right claimed under a contract. The very validity and enforceability of Exhibit A1 is the subject matter of the suit. Granting an absolute injunction in favour of the respondent/defendant would amount to prejudging the dispute and virtually dismissing the petitioner's/plaintiff's claim at the threshold.

11. The respondent's/defendant's ownership right is undoubtedly preserved. However, its full and unfettered exercise, to the limited extent covered by the alleged agreement, must await final adjudication. If the agreement is ultimately found to be not genuine or unenforceable, the respondent's/defendant's rights as absolute owner shall stand fully restored without any impediment.

Points are answered accordingly:

In the result

- 1. I.A. No. 02/2026 filed by the petitioner/plaintiff is allowed. The respondent/defendant, his men and agents are restrained from interfering with the petitioner's/plaintiff's exercise of rights strictly in accordance with Exhibit A1 dated 01-01-2025, pending disposal of the suit.**
- 2. I.A. No. 06/2026 filed by the respondent/defendant seeking interim prohibitory injunction restraining the petitioner/plaintiff from cutting or removing rubber trees or extracting latex is dismissed.**
- 3. The respondent's/defendant's ownership over the plaint schedule property remains intact and is only subject to the provisional operation of Exhibit A1 pending trial.**

4. The petitioner/plaintiff shall not cut or remove any trees beyond those covered under Exhibit A1 and shall not alter the nature or character of the property otherwise.

All observations made herein are prima facie in nature and shall not influence the trial on merits.

Pronounced by me in open court, this the 17th day of February, 2026.

Sd/-
Munsiff

Witness examined on petitioner's side (IA 02/2026) : Nil

Exhibits marked on petitioner's side (IA 02/2026)

A1 - 01/01/2025 - Agreement executed by Asees.K

A2 - 03/06/2025 - Extract of Account statement.

07/07/2025 - Extract of Account statement.

11/07/2025 - Extract of Account statement.

Witness examined and exhibits marked on respondent's side : Nil

Court exhibits

C1 - 09/02/2026 - Commission report submitted by
Advocate commissioner Maya Ashokan.

Sd/-
Munsiff

Copied by : Sulochana.M
Compared by: Sivadasan.M.V.

(True copy)

Munsiff

Fair/Copy of Common Order in
IA. 02/2026 (Sl.No.77/2026)
and I A. 06/2026(Sl.No,117/2026)
in OS.11/2026
Dated: 17-02-2026.