

IN THE FAMILY COURT, ADOOR
Present: Rejula P V, Judge
Wednesday the 13th day of May, 2026
23rd day of Vaishakam 1948 S.E

**COMMON ORDER IN IA 1/2026 & IA 2/2026 in
OP 1393/2023**

IA 1/2026 in OP 1393/2023

Between:-

Grace Shibu, aged 43 years,	}	
W/o Shibu.P.George,	}	
Anu Bhavanam,	}	Petitioner
Kadampanadu North Muri,	}	
Kadampanadu Village,	}	
Adoor Taluk,	}	
Pathanamthitta Dist.	}	
(By Adv.Nikhil.A.Azeez)		

And:-

- | | | |
|-------------------------|---|-------------|
| 1. Shibu.P.George, | } | |
| aged 50 years, | } | |
| S/o P.G.George, | } | Respondents |
| Poikayil Kripa Sadanam, | } | |
| Kadampanadu North Muri, | } | |
| Kadampanadu Village, | } | |
| Adoor Taluk, | } | |
| Pathanamthitta Dist. | } | |
| | | |
| 2. Chinnamma George, | } | |
| aged 68 years, | } | |
| S/o P.G.George, | } | |
| Poikayil Kripa Sadanam, | } | |
| Kadampanadu North Muri, | } | |
| Kadampanadu Village, | } | |
| Adoor Taluk, | } | |
| Pathanamthitta Dist. | } | |
| (Adv.P.K.Vinod) | | |

IA 2/2026 in OP 1393/2023

Between:-

Grace Shibu, aged 43 years,	}	
W/o Shibu.P.George,	}	
Anu Bhavanam,	}	Petitioner
Kadampanadu North Muri,	}	
Kadampanadu Village,	}	
Adoor Taluk,	}	
Pathanamthitta Dist.	}	
(By Adv.Nikhil.A.Azeez)		

And:-

- | | | |
|-------------------------|---|-------------|
| 1. Shibu.P.George, | } | |
| aged 50 years, | } | |
| S/o P.G.George, | } | Respondents |
| Poikayil Kripa Sadanam, | } | |
| Kadampanadu North Muri, | } | |
| Kadampanadu Village, | } | |
| Adoor Taluk, | } | |
| Pathanamthitta Dist. | } | |
| 2. Chinnamma George, | } | |
| aged 68 years, | } | |
| S/o P.G.George, | } | |
| Poikayil Kripa Sadanam, | } | |
| Kadampanadu North Muri, | } | |
| Kadampanadu Village, | } | |
| Adoor Taluk, | } | |
| Pathanamthitta Dist. | } | |
| (Adv.P.K.Vinod) | | |

These petitions having been finally heard on 21.04.2026 and having stood over for consideration on 13.05.2026 the Court passed the following:-

COMMON ORDER

Petitioner in the OP filed IA 1/2026 under Order VI Rule 17 CPC to amend the OP and IA 2/2026 under Order I Rule 10(2) CPC for impleading additional 3rd respondent.

2. Petitioner's case, in brief, is as follows: - OP is for realization of gold ornaments and money. Petitioner has charge in respondent's family property having 31.40 Ares in Resurvey No. 186/8-3 in Kadampanad village and family house situated therein. Petitioner and 1st respondent resided in the said property since their marriage in 1997. In 1998, they went abroad after entrusting petitioner's entire assets with respondents and 2nd respondent's husband. Assuring that the family property was meant for petitioner and 1st respondent, 2nd respondent's husband undertook to bequeath the property in their favour within short time. After the assurance, 2nd respondent and her husband started to spend petitioner's assets. Her gold was either pledged or partially sold, either to discharge the family's liabilities or to meet the expenses of 2nd respondent's daughter. Petitioner never objected the same as the family property was assured to petitioner and 1st respondent.

3. Using petitioner's cash, the family house which was an old non descript one which badly requires repairs was renovated, extended and modified. After few years, compound wall and gate were constructed to the family property using petitioner's cash. There was another renovation work in 2009. Rubber saplings were planted in the family property at different times using petitioner's cash. Rubber rollers and its shed were also set up by petitioner's cash. In the meantime, using petitioner's money, 2nd respondent financed her daughter Sheeba to purchase a villa at Kollam. 1st respondent's brother Shaji P George borrowed money twice from petitioner. Firstly he borrowed ₹2,00,000/- for the renovation work of family house and later he borrowed ₹3,00,000/- for purchasing his

wife's sister's property. Petitioner's entire assets were spent for purpose of their family. Thus she got a charge in the respondent's family property.

4. Recently petitioner came to know that 2nd respondent's husband has executed a will deed No. 18/1999 in favour of his younger son Shaji P George in such a way that he could take it after death of 2nd respondent. In the meantime, 2nd respondent executed a settlement deed No. 27/2014 in favour of Shaji P George. It is cheating in collusion of family members to extort and extract money from the petitioner. If the will deed was informed to the petitioner, she would not have allow them to spend her hard earned money in the said property. Thus IA 1/2026. As the property over which petitioner has charge has been bequeathed to Shaji P George, he is a necessary party in the OP. He shall be impleaded for a fair adjudication in this case. Thus IA 2/2026.

5. Respondents' objection, in brief, is as follows: - The petitions which are filed to protract the trial and to complicate the subject matter of the petition will seriously prejudice the defence. By the proposed amendment and impleadment, petitioner is attempting to bring new case and new relief which will change the nature and character of the petition. The OP is for realization of gold ornaments, money, etc. But by the proposed amendment and impleadment, the attempt is to change the nature of the petition with a fraudulent intention to make 1st respondent's brother in party array to overcome the claim petition filed by him. The proposed amendment and impleadment are vague and unclear without supporting documents. Those are hopelessly time barred.

6. Heard both sides. Petitioner filed argument notes.

7. Following points arise for consideration in IA 1/2026: -

1. Is the proposed amendment necessary for determining the real question in controversy?
2. Can petitioner be permitted to amend the OP as sought for?

8. Following point arises for consideration in IA 2/2026:-

Is the proposed respondent a necessary or formal party for determining the dispute?

9. Point Nos.1 and 2 in IA 1/2026 and the point in IA 2/2026: -

OP is for return of gold ornaments, parental share amount and other amount alleged to be misappropriated by the respondents and amount invested in 1st respondent's LIC, declaration of petitioner's title over petition schedule property and for realization of compensation. In the OP, petitioner averred that after marriage between petitioner and 1st respondent on 16.11.1997, they left to 1st respondent's job place after entrusting petitioner's 48½ sovereigns of gold ornaments with respondents and 1st respondent made her to believe that the gold ornaments are with 2nd respondent. At the time of marriage, petitioner's family had given 5 sovereigns of gold chain to the 1st respondent. On the date of engagement, ₹5,00,000/- was entrusted with respondents. Thereafter in October 1998 remaining parental share amount of ₹5,00,000/- was entrusted by petitioner's family with 2nd respondent. All the parental share amount were used for respondents' private needs and discharging their liabilities. Petitioner who worked abroad for handsome salary gave ₹2,00,000/- to the 1st respondent for his job at abroad. She also gave about ₹47,00,000/- secured from her job to respondent and

deposited ₹14,00,000/- in 1st respondent's LIC policy. After appropriating petitioner's entire investments, respondents attempted to avoid the petitioner. While working at abroad, petitioner purchased petition schedule property using her income from her job and availing loan from State Bank of Travancore in joint name of herself and 1st respondent. Petitioner herself repaid the entire loan amount. 1st respondent's name was incorporated for name sake. On the said plea, petitioner sought the said reliefs.

10. Learned counsel for petitioner submitted that the proposed amendment is necessary to determine real question in controversy. Amendment can be at any stage. Proposed amendment will not alter the nature of the case. Liberal approach has to be taken in application for amendment. Learned counsel for respondent submitted that amendment application is filed only after filing of claim petition by proposed respondent. Petitioner proposes to introduce new case of lending of money. Petitioner who is an educated lady and nurse by profession, signed the petition in Malayalam after reading it. There is no marital relationship between petitioner and proposed respondent. Now petitioner is seeking to introduce new time barred claim which will alter the nature of the case.

11. Petitioner can be permitted to amend the OP, if it is necessary for determining the real question in controversy. A person can be made a party to the OP, only if his presence is necessary for determining the dispute or for complete adjudication of the case. Now the petitioner is seeking to incorporate additional pleadings and implead additional

respondent alleging charge over respondents' family property. In proposed amendment, petitioner states that after marriage, petitioner and 1st respondent resided in family house situated in 31.40 Ares of property in Resurvey No. 186/8-3 in Block No. 13 of Kadampanad village. While leaving to abroad, petitioner's entire property were entrusted with respondents and 2nd respondent's husband. 2nd respondent and her husband had assured that the family property will be transferred in the name of petitioner and 1st respondent. On such assurance, 2nd respondent and her husband misappropriated petitioner's assets. Her gold ornaments were either pledged or sold for their own purposes. Petitioner did not object the same in view of respondent's assurance. Petitioner's entire money and gold ornaments were used by respondents and family. In 1998, they renovated the family house using petitioner's money. Thereafter, using petitioner's money, compound wall and gate were constructed. Again in 2009, they renovated the house. They also planted rubber saplings, constructed sheet shed and purchased rubber roller using petitioner's money. Apart from that 2nd respondent used petitioner's money for purchasing villa at Kollam for her daughter Sheeba. 1st respondent's brother Shaji P George had borrowed ₹5,00,000/- from petitioner. Her entire parental share amount of ₹10,00,000/- was misappropriated by respondents after intimating her. She did not object due to 2nd respondent's husband's assurance that the property and house will be transferred in the name of petitioner. But 2nd respondent's husband executed a will deed No. 18/1999 dated 02.05.1999 bequeathing the above said property in the name of 1st respondent's brother Shaji P

George in such a way that it will come into effect after death of 2nd respondent. In 2014, 2nd respondent executed settlement deed No. 27/2014 in the name of Shaji P George. Petitioner came to know about the settlement deed in September 2017. It was executed in view of collusion among the respondents to escape from the financial liability towards the petitioner and to cause loss and hardships to her.

12. Petitioner is not seeking relief on the basis of charge. Thus, whether petitioner has charge over family property is not a question in controversy and proposed amendments are not necessary to determine the real question in controversy. It is pertinent to note that the property having 31.40 Ares in Resurvey No. 186/8-3 in Kadampanad village was attached before judgment as per order in IA 1498/2017 on the files of Family Court Pathanamthitta. On 16.09.2017, proposed respondent filed IA 1498/2017 (claim petition) under Order XXI Rule 58 CPC for declaration of his absolute title over the property. Petitioner herein (1st respondent in claim petition) who filed an objection on 28.03.2018, filed another objection on 28.12.2018 on change of vakalath, alleging the same pleading she proposes to incorporate in the OP by amendment. Thereafter, on 29.08.2019, she filed the present applications. After trial, by order dated 28.11.2019, the claim petition was allowed. By judgment dated 10.02.2025 MAT. Appeal No. 10/2020 filed by petitioner, Hon'ble High Court confirmed the order. Hence, claim petitioner's title over the property has been declared. As per Order XXI Rule 58(4) CPC, the order is a deemed decree. Now petitioner's attempt to incorporate the same

pleadings to re agitate in the OP is barred by resjudicata **(S.11 CPC)**. Thus, she cannot be permitted to amend the OP.

13. In the OP even if it is permitted to amend as sought for, no relief is claimed against the proposed respondent. His title has been already declared in claim petition filed by him. Thus, petitioner cannot re agitate the same contentions by impleading him in the OP. Thus, he is not a necessary or formal party in the OP and petitioner cannot be permitted to make him a party in the OP. These points are found against the petitioner.

14. In view of the findings on point Nos. 1 and 2 in IA 1/2026 and the point in IA 2/2026, this court hold that the said applications are liable to be dismissed.

In the result, IA 1/2026 and IA 2/2026 are dismissed. Parties shall bear their respective costs.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 13th day of May 2026.

Sd/-
REJULA.P.V
JUDGE

Appendix: Nil

Id/-
JUDGE

