

IN THE COURT OF THE MUNSIFF, IRINJALAKUDA
Present: Smt. Abeena C. H., Additional Munsiff
Monday, 8th day of June 2026/18th Jyeshtha, 1948

IA 3/2026 in IA 3/2022 in O.S. No. 2934/2016

Petitioner/ Plaintiff:-

Rajeswari, 54 years, W/o Kavanappilly late Sukumaran,
Kattikarakunnu Desom, Vadakumbhagam Village,
Ashtamichira P.O, Chalakudy Taluk. Pin- 680 731.

By Adv. P. R. Anandan

Respondents/Defendants:-

1. Rama Venugopal, 56 years, W/o Kunnuran Venugopal,
Vadakumbhagam Village, Desom, Ashtamichira P.O,
Chalakudy Taluk. Pin- 680 731.
2. Venugopal, 59 years, Kunnuran Krishnan Nair,
Vadakumbhagam Village, Desom, Ashtamichira P.O,
Chalakudy Taluk. Pin- 680 731.
3. Radhakrishnan, 59 years, S/o Korankott Devakiyamma,
Vadakumbhagam Village, Desom, Ashtamichira P.O,
Chalakudy Taluk. Pin- 680 731.
4. Rajendran, 58 years, S/o Korankott Devakiyamma,
Vadakumbhagam Village, Desom, Ashtamichira P.O,
Chalakudy Taluk. Pin- 680 731.
5. Nandakumar, 56 years, S/o Korankott Devakiyamma,
Vadakumbhagam Village, Desom, Ashtamichira P.O,
Chalakudy Taluk. Pin- 680 731.
6. Unnikrishnan, 51 years, S/o Korankott Devakiyamma,
Vadakumbhagam Village, Desom, Ashtamichira P.O,
Chalakudy Taluk. Pin- 680 731.

7. Manju, 47 years, W/o Edatukaran Thankachan, Vadama Village, Desom and P.O, Chalakudy Taluk. Pin- 680732.
8. Jisha, 47 years, W/o Edatukaran Stani Slavos, Vadama Village, Desom and P.O, Chalakudy Taluk. Pin- 680732.
9. Biju, 52 years, S/o Vathikadan Velayudhan, Puthenchira Village, Kizhakummuri P.O, Mukundapuram Taluk. Pin- 680 572.
10. George, 69 years, S/o Thachil Kannayi Mathew, Puthenchira Village, Kizhakummuri P.O, Mukundapuram Taluk. Pin- 680 572.
11. Vanaja, W/o Kuzhikattussery Velayudhan, Kolkunnu Desom, Vadakumbhagam Village, Ashtamichira P.O, Chalakudy Taluk. Pin- 680 731.
12. Vani Anand, W/o Pattathiparambil Anandmohan, Vadakumbhagam Village, Desom, Ashtamichira P.O, Chalakudy Taluk. Pin- 680 731.
13. Secretary, Mala Grama Panchayat, Mala Panchayat Office, Vadama Village, Mala P.O, Chalakudy Taluk, Thrissur District. Pin- 680 732.
14. Amith Mohanan, 35 years, S/o Pattathiparambil Mohanan, Vadakumbhagam Village, Desom, Ashtamichira P.O, Chalakudy Taluk. Pin- 680 731.
15. Mohanan, 60 years, Father of 14th respondent, Pattathiparambil House, Vadakumbhagam Village, Desom, Ashtamichira P.O, Chalakudy Taluk. Pin- 680 731.
16. Sudha, 60 years, W/o Pattathiparambil Mohanan, Vadakumbhagam Village, Desom, Ashtamichira P.O, Chalakudy Taluk. Pin- 680 731.

17. Anand, 43 years, S/o Pattathiparambil Mohanan, Vadakumbhagam Village, Desom, Ashtamichira P.O, Chalakudy Taluk. Pin- 680 731.
18. Ashish, 38 years, S/o Pattathiparambil Mohanan, Vadakumbhagam Village, Desom, Ashtamichira P.O, Chalakudy Taluk. Pin- 680 731.
19. Jessy, 58 years, W/o Thachil Kannayi George, Puthenchira Village, Kizhakummuri P.O, Mukundapuram Taluk. Pin- 680 572.
20. Christy, 36 years, D/o Thachil Kannayi George, Puthenchira Village, Kizhakummuri P.O, Mukundapuram Taluk. Pin- 680 572.
21. Justin, 34 years, S/o Thachil Kannayi George, Puthenchira Village, Kizhakummuri P.O, Mukundapuram Taluk. Pin- 680 572.
R1,2 and 5 By Adv. Pauly Ambooken
R13 Akhil Ayyappa
This petition coming on this day for hearing and the court delivered the following:

ORDER

1. Petition filed by the plaintiff in the suit to remit the commission report filed in the suit.

2. **Gist of averments of the petitioner are as follows:** The petitioner is the plaintiff in the above suit. The suit is one for declaration and injunction in respect of the plaint schedule properties. An Advocate Commissioner with the assistance of a Surveyor was deputed in I.A. No.3/2022 and the Commission Report and Plan were

filed on 02.11.2024. The petitioner submits that the report and plan suffer from serious factual and measurement errors and therefore require remittance for fresh identification and measurement of the properties with reference to all relevant title deeds.

3. The petitioner obtained the plaint schedule properties under Sale Deed Nos.2096/1992, 1509/1991 and 1160/2006. The petitioner's husband had originally obtained 19.27 cents of property under Deed No.1509/1991. Subsequently, portions of the said property were alienated and the remaining extent of 4.27 cents continues to lie jointly and contiguously with the other properties of the petitioner within the same four boundaries. However, while preparing the report and plan, the Advocate Commissioner and Surveyor failed to properly consider and verify the recitals and measurements contained in Deed No.1509/1991. Consequently, they erroneously reported that the petitioner is in possession of an excess extent of 0.0215 hectares. The said finding is the result of an incorrect identification and measurement of the properties and is liable to be reconsidered after proper verification of the title documents.

4. Further, while answering the second query, the Advocate Commissioner and Surveyor failed to identify, locate and demarcate the pathway having an extent of 2.216 cents created under Deed No.3125/2008 and the pathway having an extent of 1 cent created under Deed No.2419/2012. The report and plan were submitted without properly perusing and taking into consideration the aforesaid title deeds. The Commissioner has not reported the existence, location or measurements of the pathways created under the above deeds. The first defendant had alienated portions of her property after carving out pathways through the property, which fact is evident from the title deeds themselves. While measuring the properties, the extent set apart for such pathways ought to have been excluded from the total extent available to the transferor. The omission to identify and account for the said pathways has materially affected the correctness of the report and plan.

5. In the above circumstances, the Commission Report and Plan are incomplete and inaccurate and are liable to be remitted for fresh measurement and reporting after proper verification of all relevant title deeds, particularly Deed Nos.1509/1991, 3125/2008 and 2419/2012, and for identification and demarcation of the pathways

created thereunder. Hence this petition.

6. **The 13th respondent filed objections with following contentions:** The petition is not maintainable either in law or on facts. The Commission Report and Sketch were prepared and submitted after perusing all the relevant title deeds, prior title deeds and other connected records relating to the plaint schedule properties. The petitioner had earlier instituted O.S. No. 1692/2008 before the Munsiff's Court, Irinjalakuda. In the said suit, pursuant to the directions of the Court, an Advocate Commissioner with the assistance of a Surveyor measured the entire plaint schedule properties. It was found therein that the plaintiff was in possession of one cent of property in excess of the extent covered by her title deeds. The said suit was ultimately decreed in her favour. Deed No. 1509/1991 was also perused by the Advocate Commissioner and Surveyor in the said suit, and the decree was passed on the basis of the report submitted therein.

7. In the present case also, the Advocate Commissioner and Surveyor have perused all the relevant title deeds and documents relating to the plaint schedule properties and have prepared the report and sketch after conducting proper measurement and identification of

the properties. The plaint C schedule pathway is the pathway available to this respondent for ingress and egress to the respondent's property. The petitioner has not stated any valid or sufficient reason for remitting the Commission Report and Sketch. The allegations raised in the petition are without any basis and are intended only to delay the proceedings. Hence, the petition is devoid of merits and is liable to be dismissed.

8. Point to be considered is whether the commission report filed on 02.11.2024 is liable to be remitted?

9. PW1 and PW2 were examined from the side of the petitioner. Exts.A1 to A5 were marked. Exts.C1, C1(a) were also marked from the side of the petitioner.

10. Heard both sides. Perused the petition, objection and case records.

11. **The Point:** The petitioner seeks remittance of the Commission Report and Plan dated 02.11.2024. The principal contention raised by the petitioner is that the Advocate Commissioner failed to identify the pathway allegedly created within the plaint B schedule property as per Deed No.2419/2012 and that the extent covered by such pathway ought to have been deducted from the

property of the defendants while preparing the report and plan.

12. Before considering the above contention, it is necessary to examine the nature of the dispute involved in the suit and the reliefs sought by the plaintiff. A perusal of the plaint would show that the dispute substantially relates to the plaint C schedule pathway. The plaintiff has sought, among other reliefs, a decree of perpetual injunction restraining the defendants from increasing the width of the plaint C schedule pathway **from its existing state**, from committing waste therein, and from altering its nature. The plaintiff has also sought a declaration that the defendants have no right to use the plaint C schedule pathway for accessing the nilam property situated on its northern side. Further reliefs have been sought restraining the defendants from treating the plaint C schedule property as a Panchayat property, from effecting constructions therein and from creating any new pathway from the plaint C schedule pathway so as to provide access to properties situated on its northern side.

13. Therefore, it is clear from the reliefs claimed in the plaint that the plaintiff asserts rights over the plaint C schedule pathway in the condition and state in which it existed at the time of institution of

the suit. Significantly, no relief has been sought for fixation of boundary or determination of title and extent of the plaint C schedule pathway. The court fee has also been paid under Sections 25(d) and 27(c) of the Kerala Court Fees and Suits Valuation Act. Thus, the controversy involved in the suit is essentially with respect to the existing nature, possession and user of the plaint C schedule pathway.

14. In such circumstances, for the effective adjudication of the disputes involved in the suit, what is relevant is the identification of the plaint C schedule pathway as it exists on the ground and the rights claimed by the parties in respect thereof. For deciding those issues, there is no necessity to ascertain the pathway allegedly carved out within the plaint B schedule property or to determine whether the extent thereof has to be deducted from the property of the defendants.

15. A perusal of Ext.C1(a) plan shows that the possession boundaries of the plaint C schedule property have been clearly identified and demarcated by the Commissioner. The petitioner has not pointed out any omission or defect in the identification of the plaint C schedule pathway which is the subject matter of the suit. The grievance raised by the petitioner relates to matters which are not necessary for adjudicating the real controversy involved in the suit.

16. It has also come out from the evidence of PW2 that identification of the two pathways allegedly created within the plaint B schedule property cannot be undertaken by merely measuring the plaint schedule properties. PW2 has deposed that, for locating the said pathways with reference to the title deeds, measurement of adjoining properties would also become necessary. The properties lying on the eastern and western sides of the plaint B schedule property are comprised in the same survey number. The northern boundary is a survey boundary and the southern boundary is a two kole wide pathway. It has also come out from the evidence of PW2 that an excess extent of property was found in the possession of the holders of the plaint A and B schedule properties. According to PW2, before identifying the pathways claimed by the petitioner with reference to the title deeds, it would first be necessary to determine and allocate the excess extent found in possession to a particular side on the basis of appropriate directions from the Court. Only thereafter would it be possible to proceed with the measurement of the entire properties and the adjoining properties for the purpose of locating the alleged pathways.

17. Thus, the exercise sought for by the petitioner would require a fresh and extensive survey involving properties of persons who are not parties to the suit. Such an enquiry would considerably enlarge the scope of the commission proceedings and consume substantial time. In the facts and circumstances of the present case, especially when such an exercise is not necessary for adjudication of the issues arising in the suit, this court finds no justification for remitting the Commission Report and Plan.

18. It is also relevant to note that the plaintiff herself approached the Hon'ble High Court of Kerala seeking expeditious disposal of the suit and the Hon'ble High Court directed this Court to dispose of the suit within a time frame. In such circumstances, the parties cannot be permitted to enlarge the scope of the enquiry by seeking collection of materials which are not necessary for deciding the issues arising in the suit.

19. In the above circumstances, this Court finds no merit in the petition. No sufficient grounds are made out for remitting the Commission Report and Plan. Hence, this petition is liable to be dismissed.

20. In the result,

Petition is dismissed.

(Dictated to the Confidential Assistant, transcribed and typed by her corrected by me and pronounced in open court on this the 8th day of June, 2026).

Sd/-

Abeena C. H
Additional Munsiff

APPENDIX:-

Petitioners Witness:-

PW1 01.06.2026 Ajith P. T

PW2 01.06.2026 Jibin

Petitioners Exhibits:-

A1 21.12.2006 Certified copy of Document no. 3283/06.

A2 04.09.2008 Certified copy of Document no. 3125/08

A3 03.10.2012 Certified copy of Document no. 2419/12

A4 03.10.2012 Certified copy of Document no. 2420/12

A5 16.03.1971 Certified copy of Document no. 591/1971

Court Exhibits:-

C1 & C1(a) Commission report and sketch submitted by
Adv. Ajith P. T dated 02.11.2024.

Sd/-

Additional Munsiff

//True copy//

Additional Munsiff

Copied by: rh

Com. by:

Order in IA 3/2026
in IA 3/2022
in OS 2934/2016
Dated. 08.06.2026