

IN THE COURT OF THE MUNSIF, KODUNGALLUR.

Present:- Smt.Karthika.K.,Munsiff.

Wednesday, the 25th day of February, 2026/6th Phalgunam, 1947 SE

I.A.1/2026 IN O.S.868/2004

Petitioners/Plaintiffs

1. Kadijabi, Aged 55, D/o.Ayyaril Muhammedkutty, Eriyad Village & Desom, Kodungallur Taluk.
2. Ramlu, Aged 51, D/o.Ayyaril Muhammedkutty, Eriyad Village & Desom, Kodungallur Taluk.
3. Nisar, Aged 53, S/o.Ayyaril Muhammedkutty, Eriyad Village & Desom, Kodungallur Taluk, Represented by Power of attorney Holder, Kadijabi.
4. Rasheed, Aged 49, S/o.Ayyaril Muhammedkutty, Eriyad Village & Desom, Kodungallur Taluk, Represented by Power of attorney Holder, Kadijabi.

By Adv.T.K.Prabhakaran

Respondents

1. Muhammed Ismayil, Aged 56, S/o.Ayyaril Abdul Rahiman, Eriyad Village & Desom, Kodungallur Taluk.
2. Muhammed Iqbal, Aged 54, S/o.Ayyaril Abdul Rahiman, Eriyad Village & Desom, Kodungallur Taluk.
3. Abdul Salam, Aged 45, S/o.Ayyaril Abdul Rahiman, Eriyad Village & Desom, Kodungallur Taluk.
4. Shyna, Aged 45, D/o.Ayyaril Abdul Rahiman, Eriyad Village & Desom, Kodungallur Taluk.

5. Rukkiya, Aged 77, W/o.Ayyaril Abdul Rahiman,
Eriyad Village & Desom, Kodungallur Taluk.

By Adv.K.P.Manoj

This petition having come up for final hearing before me on 24.02.2026 in the presence of the counsel for both sides and having stood over for consideration to this day the court on 25.02.2026 passed the following:-

ORDER

This petition is filed under Order 6 Rule 17 of CPC for amendment of the plaint.

2. **The petition averments is as follows:-** The petitioner is the 2nd plaintiff in the above original suit. This suit is one for fixation of boundary and consequential injunction. This court has appointed an advocate commissioner and the commissioner has measured the entire plaint schedule properties with the assistance of a Taluk Surveyor and commission report and plan is filed before this court. It has become necessary to amend the plaint according to the commission report filed by the advocate commissioner. It is also necessary to incorporate the property description of the defendants in the schedule. It is necessary to remove some statements which is unnecessary from the plaint. It will not change the entire nature of the suit. Therefore this petition may be allowed.

3. **The defendants filed objection as follows:-**

The above petition is not legally or factually maintainable. Since the court has referred the case for mediation the mediation was conducted and the parties has resolved the dispute. The petitioners requirement was to provide a pathway with a width of 3 ½ meters on the southern side of the entire property to have an entry into their residential plot. It is also agreed that the petitioner could not continue possession of the land in continuous to the shopping complex constructed by the respondents abutting the PWD road. It was also agreed to rectify the four boundaries and to pass a decree accordingly. A draft mediation agreement is also prepared. Thereafter the respondents by revealing the confidential matters disclosed in the mediation and including the stipulations of the agreement in the mediation agreement this petition has been filed. The case is pending for the last 20 years. The evidence was taken in the present case and a decree was passed by this court. A second appeal was also filed from the decree. During all these periods the respondents never filed any petition to amend the identity of the property or to adduce evidence accordingly. This petition filed on the basis of the confidential matters revealed in the mediation and it is highly belated and illegal. The entire nature and character of the suit will be changed by this amendment. The amendment is sought for a declaration of title upon the property possessed by the respondents. After 20 years when they realised that the suit is not

maintainable this petition has been filed to amend the plaint. The facts mentioned in the second paragraph of the petition and affidavit is not true. The plaintiff filed petition on 24.9.2025 to dismiss the commission report and plan filed by the advocate commissioner V.M.Sreekumar. They also mentioned in the commission application that the commission report is incomplete and the petition schedule properties are not properly identifiable. They have also raised serious allegation that the advocate commissioner joint hands with the interest of the defendants. Therefore the averment in the petition that this petition is filed based on the commission report filed is unsustainable. This petition has no bona fides. If the amendment is allowed the ownership of the property and the property possessed by the plaintiffs/ petitioners will be entirely changed. The petition is filed to change the entire extent of the plaint schedule properties and survey numbers and to establish that the property on the eastern side abutting the PWD road in the possession of the respondents is not obtained by the respondents. Therefore this petition may be dismissed.

4. Heard counsel for both sides.

5. Point to be considered:-

“ Whether the petition can be allowed?”

6. **The point:-** The petition is filed for amendment of the plaint. The petitioner/plaintiff sought for a relief of amendment

in the plaint and the reason for filing the amendment petition is alleged to be the commission report filed by the advocate commissioner on 24.9.2025. Upon going through the matters sought to be amended in the petition it is understood that the plaintiff is intended to bring in gross change in the plaint by way of amendment. Once the plaint was amended and the prayer for relief of recovery of possession and mandatory injunction was also incorporated by the plaintiffs. But now the plaintiff seeks to strike out the relief sought is recovery of possession as well as mandatory injunction.

7. It is pertinent to note that once the suit was brought for trial and after the trial the suit was heard on merits and was decreed by this court. Thereafter the plaintiffs and defendants filed appeal before the Hon'ble Sub Court and the case was remanded back to this court only for the purpose of identifying the plaint 'A', 'B' and 'C' schedule properties. The suit is filed in the year 2004. It has been pending for the last 22 years. When the commission report is filed the plaintiffs also filed petition to dismiss the commission report. The plaintiff has raised serious allegations with respect to the validity of the commission report. Now this petition is filed stating that the plaintiff wants to bringing the amendment in accordance with the report filed by the advocate commissioner. That statement it self is a contradictory. By allowing the amendment the

entire nature of the suit will be changed. More over the petition is highly belated one. For the reasons stated above I am not inclined to allow this petition.

In the result the petition stands dismissed.

Dictated to the Confdl.Asst., transcribed by her, corrected by me and pronounced in open court on this the 25th day of February,2026.

Sd/-
KARTHIKA.K,
MUNSIFF

Appendix-NIL

Id/-
MUNSIFF
(By order)

//True copy//

Junior Superintendent

Copied by:KS
compared by: