

IN THE COURT OF THE MUNSIFF, ATTINGAL
PRESENT: SMT. SWATHI.R.KRISHNAN, MUNSIFF
THURSDAY 26th JUNE, 2025 / 12th ASHADA, 1947
IA 07/2025 in OS No.567/2018

Petitioners/Plaintiffs:

1. Lathika, aged 52 years, W/o Sarasan, residing at Puthenveedu, having Vadakkathil Veedu, 3/290, Stalinmukku, Mel-Kadakkavoor, Chirayinkeezhu Taluk, Thiruvananthapuram District
2. Gayathri, D/o Lathika, residing at Puthenveedu, having Vadakkathil Veedu, 3/290, Stalinmukku, Mel-Kadakkavoor, Chirayinkeezhu Taluk, Thiruvananthapuram District
3. Rahul, S/o Sarasan, residing at Vadakkathil Veedu, 3/290, Stalinmukku, Mel-Kadakkavoor, Chirayinkeezhu Taluk, Thiruvananthapuram District
By Advocate: Sri.A Sabeer

Counter Petitioners/Defendants:

1. Sarasamma, D/o Narayanan, residing at Puthenveedu(Vadakkathil Veedu),Mel-Kadakkavoor, Kadakavoor P.O, Chirayinkeezhu Village and Taluk, Thiruvananthapuram District (4th Defendant)
2. Mithra, W/o Aneesh, Mitha Mandiram, Mel-Kadakkavoor, Kadakavoor P.O, Chirayinkeezhu Village and Taluk,Thiruvananthapuram District
3. Suresh Babu, S/o Narayanan, aged 55 years, Mitha Mandiram, Mel-Kadakkavoor, Kadakavoor P.O, Chirayinkeezhu Village and Taluk,Thiruvananthapuram District
By Advocate: Sri. K S Anilkumar

This petition is having been finally heard on 26/06/2025 and the court on the same day passed the following:

ORDER

This is a petition filed under Section 151 of CPC.

2. **The petition averments are as follows:** The petitioners are the plaintiffs in the suit. The suit is for permanent prohibitory injunction. The defendant filed O.S.330/2021 for cancellation of judgment and decree before this court. The subject matter and parties of this suit are same as that of O.S.330/2021. The matter in issue decided in both cases are one and the same. Hence this petition to try this case jointly along with O.S.330/2021.

3. **The defendant filed an objection contenting as follows:** The petition is not maintainable either under law or on facts. O.S.567/2018 for injunction and for

consequential reliefs. The defendants 2 and 3 filed counterclaim in this suit whereas O.S.330/2021 was filed by the plaintiff for cancellation of judgment and decree. The intention of plaintiff is to prolong the matter. Hence joint trial petition cannot be allowed. The petition may be dismissed with costs.

4. The points that arose for consideration are:

1. Can the petition be allowed ?

2. Reliefs and costs ?

5. Heard both sides.

6. **Point No.(1):** This is a petition filed for joint trial of this case along with O.S.330/2021.

7. In ***Prem Lala Nahata v. Chandi Prasad Sikaria AIR 2007 SC 1247***, the Supreme Court has held that *‘the jurisdiction to order consolidation arises where there are two or more matters or causes pending in the court and it appears to the court that a common question of law or fact arises in both or all the suits or that the rights to relief claimed in the suits are in respect of or arise out of the same transaction or series of transactions.’*

8. In ***State Bank of India v. Ranjan Chemicals Limited (2007) 1 SCC 97***, the apex court has held that *‘an order for a joint trial is considered to be useful in that it will save the expenses of two attendance by counsel and witnesses and the trial judge will be enabled to try the two actions at the same time and take common evidence in respect of both the claims. A joint trial is ordered when a Court finds that the ordering of such a trial would avoid overlapping of evidence being taken*

in two or more cases and it will be more convenient to try them together in the interests of the parties and the interests of an effective trial of the cases.'

9. Further, Kerala High Court in **Joseph v. Benny J Aricatt 2020(6) KLT 389** has held that *'the jurisdiction to order consolidation arises where there are two or more matters or cases pending in the Court and it appears to the Court that a common question of law or facts arises in both or all the suits or that the rights to relief claimed in the suits are in respect of or arise out of the same transaction or series of transactions.'*

10. In the instant case, the parties to both suits are same. The primary factor to be considered is the chance of conflicting decisions in two suits. The nature of evidence to be adduced in both cases is similar and hence the court can save judicial time by ordering joint trial. Further in the instant case, conflicting decisions have to be avoided. Hence this court is of the view that there are sufficient grounds to allow consolidation of both suits.

11. **Point No.(2):** In view of the discussion above, the petition is allowed. O.S.567/2018 shall be the leading case. There is no order as to costs.

Dictated to the Confidential Assistant, transcribed and typed by her corrected and pronounced by me in open Court on this the 26th day of June, 2025.

Sd/-
SWATHI.R.KRISHNAN
MUNSIFF

Appendix: Nil

Id/-
MUNSIFF

//True Copy//

Typed by: Shilpa.K.S
Compared by: Sheena K

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