

IN THE COURT OF THE MUNSIFF, VARKALA.

PRESENT : Sri. ARAVIND. P, MUNSIFF

THURSDAY 19th JUNE, 2025

IA. 5/2024 IN OS NO. 320/ 2023

PETITIONER/ 1st DEFENDANT:-

Muneera, aged 67 years, W/o Nazar, Shyra Manzil, Palachira,
P.O., Cherinniyoor Village, Varkala Taluk,
Thiruvananthapuram District.

By Adv. P. S. Jobin.

RESPONDENT/ (PLAINTIFF AND DEFENDANT 2 TO 7) :-

1. Shafeela Beegum (Shafeela Beevi), aged 56 years, D/o
Muhammed Musthafa, Ansari Building,
Reghunathapuram, Palachira P.O., Cherukunnam Desom,
Varkala Village, Varkala Taluk, Thiruvananthapuram District.
2. Nazimudheen, aged 73 years, S/o Muhammed Ismail, Nahas
Manzil, Palachira P.O., Cherinniyoor Village, Varkala Taluki,
Thiruvananthapuram District.
3. Muhammed Illiyas, aged 70 years, S/o Ismail,
Thunduvilakom Veedu, Palachira P.O., Cherunniyoor Village,
Varkala Taluk, Thiruvananthapuram District.

4. Sirajudheen, aged 67 years, S/o Ismail, Shaju Manzil, Palachira P.O., Cherunniyoor Village, Varkala Taluk, Thiruvananthapuram District.
5. Muneerudheen, aged 64 years, S/o Muhammed Ismail, Thunduvilakom Veedu, Palachira P.O.,
6. Shajahan, aged 62 years, S/o Ismail, --do--do--
7. Salim, aged 58 years, S/o Muhammed Ismail, S.S. Manzil, – ----do--do--

By Adv. R1 for Adv. Shajilal. S. and R2 to RF7 Adv. Saliya Babu

This Petition having been heard on 19.06.2025 and the court on the same day, passed the following.

ORDER

This is a petition filed for passing a temporary injunction.

2. **Brief averments in the affidavit are as follows:-** The petitioner herein is the first defendant in O.S.320/2023. The petitioner is the legal guardian of mentally retarded Jouhar. Moreover, the petitioner is appointed as per the National Trust Act as the legal guardian of Jouhar. Legal certificate is also issued. Originally, Jouhar was adopted as the son of Majida Beevi and Jalaludeen. Petition A schedule properties are owned by Majida Beevi and Jalaludeen. The properties were managed by the petitioner for and on behalf of Jouhar. Things are being like this, respondents attempted to forcefully

encroach into petition schedule properties and obstruct the possession of the petitioner from the legal guardian of the mentally retarded Jouhar.

3. On 19.06.2024, the respondents have attempted to encroach into the properties. But the duly obstruction from the petitioner, they have withdrawn. But they declared that they will come and encroach into the petition schedule properties. The petitioner apprehends the illegal acts of respondents. Moreover, the intention of the petitioner is to maintaining the properties for and on behalf of the mentally retarded Jouhar. So the petition is filed for passing a temporary injunction. Restraining the respondents from obstructing the management and possession of the petition schedule properties by the petitioner. Hence the petition.

4. The first respondent appeared and filed objection. **Brief averments in the objection filed by the respondents are as follows:-** The petitioner is having no right, title or possession over the petition schedule properties. Originally this was owned by Majida Beevi and Jalaludeen and was given to the first respondent by them as per oral gift. No right is vested with the petitioner. Now the petitioner somehow obtained the guardianship certainly and some revenue records which is having no validity. So the learned counsel prayed for dismissal of the petition.

5. The respondents 2 to 7 appeared and filed objection. **Brief averments in the objection filed by the respondents are as follows:-** The petition is not maintainable either in law or on facts.

The present petition is filed for obstructing the possession by the first respondent/original plaintiff. The said Jouhar is having no right over the property. Petitioner has brought a child from orphanage and forged some documents and it is now stated that the prior owners of petition schedule properties have adopted the child. Moreover, writ petition is pending before the Hon'ble High Court challenging the validity of the guardianship certificate issued in favour of the petitioner. The attempt of the petitioner is to claim some benefit by connecting Majida Beevi and Jalaludeen couple and the mentally retarded Jouhar. The petitioner obtained revenue records by influencing the revenue officials. So the objection of the first respondents concluded with a prayer to dismiss the petition.

6. On the basis of the rival contentions, the following points arise for consideration:

1. Is there a prima facie case in favour of the petitioner?
2. Does the balance of convenience lie in favour of the petitioner?
3. Would refusal to grant injunction cause irreparable injury to the petitioner?
4. Reliefs and costs?

7. The court heard the learned counsel for the petitioner, learned counsel for the respondents and perused the records.

8. **Point Nos.1 to 3:-** The learned counsel of the petitioner submitted that the petitioner is managing the petition schedule properties for and on behalf of the mentally retarded Jouhar. Originally Jouhar was adopted by Jalaludeen-Majida Beevi couple in

the year 1993 when Jouhar was born in Chirayinkeezh hospital. The mother of Jouhar died immediately after the delivery. So Majida Beevi and Jalaludeen couple adopted him. There was no document for the same. This fact was known to everyone in the locality.

9. Exts.A1 to A4 are the deeds regarding the properties and Ext.A5 is the tax receipts in the name of Jouhar. The same would go to show that land tax is remitting in the name of Jouhar. Moreover, Ext.A6 is certificate issued in the name of Jouhar with regard to his possession. Ext.A7 is the certificate issued on the basis of National Trust Act, 1999. Ext.A8 would go to show that Jouhar is a mentally retarded person. Ext.A9 is the ration card which would go to show that his name was incorporated in the ration card of Jalaludeen-Majida Beevi couple. So the learned counsel submitted that the petition schedule properties are actually owned by Jouhar and the same is managed by the petitioner. So the learned counsel prayed for allowing the petition.

10. At the same time, the learned counsel for the respondents vehemently objected and submitted that Majida Beevi-Jalaludeen couple never adopted a child as Jouhar. Originally, the properties were given to the first respondent as per an oral gift. Thereafter the first respondent is possessing the the properties. So the learned counsel prayed for dismissing the petition.

11. This court considered the contentions in detail.

12. Originally the petition schedule properties were owned by Jalaludeen-Majida Beevi couple. Now both of them are no more. The

dispute is with regard to the adopted child with name Jouhar. Ext.A5 would go to show that tax is remitted in the name of Jouhar. Moreover, possession certificate is also issued and that would go to show that possession of petition schedule properties is with Jouhar. Ext.A7-certificate issued as per National Trust Act, 1999 would go to show that Jouhar is protected by the petitioner. The most important document is Ext.A9-ration card which would go to show that the name of Jouhar is incorporated in the ration card of Majida Beevi-Jalaludeen couple.

13. At the same time, no documents are produced by the first respondent to show that her name is entered into the revenue records. It is admitted that the properties are not transferred in the name of first respondent. Apart from that, the first respondent failed to establish her act of possession. At the same time, the petitioner has established that she is having possession over petition schedule properties for and on behalf of the mentally retarded Jouhar. So this court is of the view that prima facie case is in favour of the petitioner and balance of convenience is also with the petitioner. If this petition is not allowed, irreparable injury will be caused to the petitioner and if this petition is allowed, no such injury will be caused to the respondents. Point nos.1 to 3 were found in favour of the petitioner and found against the respondents.

14. **Point No.4**:- Considering the facts and circumstances of the petition both parties can be directed to suffer their respective costs. Hence this point is found accordingly.

In the result, petition is allowed as follows:

- 1. A temporary injunction is granted in favour of the petitioner and respondents are restrained from forcefully encroaching into the petition schedule properties and obstructing the possession of the petitioner over the same for and on behalf of the mentally retarded Jouhar.**
- 2. No order as to costs.**

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in Open Court, this the 19th day of June, 2025)

Sd/-
ARAVIND.P,
MUNSIFF

Appendix :

Exhibit for the petitioner

- A1 - Certified copy of Sale deed No. 3404/ 1984, dated 08/08/ 1984.
- A2 - Certified copy of Sale deed No. 3298/ 1987 dated 02/09/1987.
- A3. - Sale deed No. 2576/ 1972. dated 24/07/1972.
- A4. - Sale deed No. 4449/ 1972. dated 27/12/1972
- A5. - Tax receipt dated 13/05/2024.
- A6. - Possession Certificate dated 02/02/2024.

- A7. - Certificate of appointment of legal guardian issues from National trust for the welfare of persons with Autism, Cerebral palsy dated 13/07/2019.
- A8. - Disability Certificate issued from Medical Hospital, Thiruvnanthapuram dated 30/05/2006
- A9. - Copy of Ration Card.

Exhibit for the Respondent: Nil

COURT EXHIBIT: Nil

Id/-
MUNSIFF

// True copy/

MUNSIFF

Typed by : David. D.
Compd. by: Saritha Beegum

COPY OF ORDER IN I.A.5/2024 IN O.S.320/2023
Dated: 19.06.2025

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