

**IN THE COURT OF THE MUNSIFF, VARKALA.**

**PRESENT : Sri. ARAVIND. P, MUNSIFF**

**THURSDAY 19<sup>th</sup> JUNE, 2025**

**IA. 3/2024 IN OS NO. 320/ 2023**

**PETITIONER/ PLAINTIFF:-**

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.

**By Adv. Sri. Shajilal. S.**

**RESPONDENT/ (1<sup>st</sup> DEDFENDANT) :-**

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

**By Adv. P.S. Jobin**

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 plaintiff in O.S.320/2023. The petition schedule properties were owned by the petitioner's mother's sister late Majida Beevi and her husband late Jalaludeen who were having no issues. They have considered the petitioner as their daughter with love and affection. During their life time itself, i.e., on 06.05.1988 the

petition schedule properties were given to the petitioner as an oral gift. From that day onwards, the petition A to C schedule properties were owned by the petitioner. Even though the defendants 2 to 7 were having some kinds of rights over the said property, those rights were extinguished by way of principle of adverse possession.

3. The respondent has attempted to encroach into the petition schedule properties. The respondent has created some documents stating that the said Majida Beevi and late Jalaludeen have adopted a child. Petitioner is having rights in the property from 1988 onwards. The respondent is attempting to obstruct that right. Petitioner's mother's sister Majida Beevi or her husband Jalaludeen never adopted a child with name Jouhar. The respondent has somehow obtained certificate as per National Trust Act. So the present petition is filed for passing a temporary injunction restraining the respondent from creating any documents regarding the petition schedule properties on the basis of the forged document dated 13.07.2019. Hence the petition.

4. The respondent 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. It is admitted that the petitioner's mother's sister was Majida Beevi and her husband was Jalaludeen. Both of them have adopted a son named Jouhar. So their only legal heir is the said Jouhar. It is denied that the petitioner was considered as the daughter of late Majida Beevi and late Jalaludeen . The petition schedule properties were not possessed

by the petitioner. Petitioner has instituted the suit with some malafide intention. Respondent is the guardian of the said Jouhar. So the petition schedule properties are possessed and managed by the respondent for and on behalf of the said Jouhar. Jouhar is having 60% mental disability. Respondent has filed an application before the committee created on the basis of National Trust Act. Mother of the petitioner appeared before the committee and filed objection. After considering the materials, the respondent was appointed as the legal guardian. The petitioner has approached the Hon'ble High Court against the declaration of the respondent as the legal guardian of the said Jouhar. The attempt of the petitioner is to possess the petition schedule properties from the mentally retarded Jouhar. Defendants 2 to 7 are having no right over the said properties. There is no cause of action to institute the suit or petition. So the objection of the respondent concluded with a prayer to dismiss the petition.

5. 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?

6. From the side of the petitioner, Exts.A1 to A4 were marked.

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

8. **Point Nos.1 to 3:-** The learned counsel for the petitioner submitted that the respondent is attempting to create some documents on the basis of a forged document created on 13.07.2019. respondent is appointed as the guardian of a child named Jouhar. The petitioner is having no objection with regard to that. At the same time now the respondent is claiming right over the petition schedule properties owned by late Majida Beevi and late Jalaludeen couple. Both of them have given the properties to the petitioner as an oral gift. Now the respondent has claimed that Majida Beevi and Jalaludeen couple had adopted a child. Moreover, with that claim the respondent is now trying to encroach into the petition schedule properties. So the learned counsel for the petitioner prayed for allowing the petition.

9. At the same time, the learned counsel of the respondent submitted that the respondent is possessing the property for and on behalf of Jouhar who is the adopted son of late Majida Beevi and Jaladueen. The learned counsel further submitted that the petitioner never possessed the property. Moreover, the respondent is already appointed as the guardian of Jouhar who is mentally retarded as per the National Trust Act.

10. The learned counsel of the respondent further submitted that the petitioner hasn't taken out a commission so as to establish her possession over the properties. Moreover, it's further submitted that

tax receipt, possession certificate etc are in the name of Jouhar. It is also pointed out that the name of Jouhar is also incorporated in the ration card of late Majida Beevi-Jalaludeen couple. So the learned counsel of the respondent prayed to dismiss the petition.

11. This court considered the contentions in detail.

12. The respondent side has specifically argued that the petitioner is having no possession over the petition schedule properties. Moreover, it is important to note that no documents are produced to show that possession is with the petitioner. Apart from that, the petitioner hasn't even taken out a commission to show the act of possession over the property. As far as injunction relief is concerned, possession is the ingredient to be established. Here, the petitioner failed to establish that. So this court is of the view that there is no prima facie case and balance of convenience in favour of the petitioner. Even if the petition is not allowed, no irreparable injury and hardships will be caused to the petitioner. If the petition is allowed the respondent will be put into irreparable injury and hardships. Hence point nos.1 to 3 are found against the petitioner and found in favour of the respondent.

13. **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 dismissed. 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 19<sup>th</sup> 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

**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. 3/2024 IN OS NO. 320/ 2023**

**Dated. 19/06/2025**