

IN THE COURT OF THE MUNSIFF-MAGISTRATE MANANTHAVADY

Present : Sri.Anand Parathara, Munsiff-Magistrate, Mananthavady

Saturday, the 28th day of February– 2026
(The 09th day of Phalguna– 1947)

INTERLOCUTORY APPLICATION No.02/2024
In OS.No.228/2024

Between:

Jimesh.P.A., Aged 43 years, S/o.Arumukhan, Puthenveetil,
Mullankolly, Kartikulam Post, Thrissilery Amsom Desom,
Mananthavady Taluk, Wayanad District- 670 646.

} Petitioner/
Plaintiff

And:

1. Kunhumon, Aged about 75 years, Father's name not known to the plaintiff, Neeramplakkal House, Kartikulam Post, Thrissilery Amsom Desom, Mananthavady Taluk, Wayanad District-670 646.
2. Babu, Aged about 50 years, S/o.Kunhumon, Neeramplakkal House, Kartikulam Post, Thrissilery Amsom Desom, Mananthavady Taluk, Wayanad District-670 646.
3. Reena, Aged about 45 years, W/o.Babu, Neeramplakkal House, Kartikulam Post, Thrissilery Amsom Desom, Mananthavady Taluk, Wayanad District-670 646.
4. Rosamma, Aged about 72 years, W/o.Kunhumon, Neeramplakkal House, Kartikulam Post, Thrissilery Amsom Desom, Mananthavady Taluk, Wayanad District-670 646.

} Respondents/
Defendants

This petition coming on this day for hearing before me in the presence of Sri.K.N.Mohan and Smt.Gayathri Gopinath, Advocates for the Petitioner/Plaintiff and of Sri.Shebin George, Advocate for the Respondents/Defendants, the Court delivered the following:

O R D E R

This is an injunction application filed under Order XXXIX Rule 1 of the Code of Civil Procedure (hereinafter referred to as the CPC).

2.The petition schedule property absolutely belongs to the petitioner as per the settlement deed number 1571/2021 of the Sub Registrar's Office at Mananthavady. He has been enjoying the said property for more than 10 years and has been remitting the tax thereto. There are

well demarcated boundaries for the said property. The western boundary includes the Kakkavayal Kartikulam panchayat road, property with Babu and the property of the respondents. The petitioner is residing at Edayoorkunnu and pays occasional visits to the petition schedule property. While so, on 07/11/2024 when the petitioner visited the property the respondents obstructed him from using the road on the western side obstructing his access to his property. The respondents challenged the rights of the petitioner over the said road and also claimed some undisclosed rights over the petition schedule property. Thus the petition seeking interim orders of injunction. If the injunction is not granted, the petitioner would be put to irreparable loss and hardships. If the petitioner is not allowed peaceful access to his property, he would be forcefully dispossessed from his property. If the injunction is passed, there would be no prejudice to the respondents. The balance of convenience also is in favour of the petitioner. Thus this petition is filed seeking interim orders of injunction restraining the respondents and their men from trespassing into the petition schedule properties or committing any act of waste therein or altering its present nature and conditions or denying the access of the petitioner to the property. Injunction is also sought for restraining the respondents from interfering with the peaceful possession of the petition schedule property by the petition in any manner.

3. The respondents filed counter contending that the petition averments are false and that the petition is not maintainable. Though the title deed is mentioned, the petitioner has not specified how the petition schedule property devolved upon the petitioner. There is no road as the western boundary of the property. This is reflected in the pattayam

document number LA/382/69/TNLY(TSLY)/C5 issued from the Tahsildar, Mananthavady. As per the said document, there is no such road as the western boundary of the property when it was owned by the father of the petitioner. Hence the document number 1571/2021 is a sham document and the petition is based on the said document without specifying any other details. The objective of the petitioner is to make an access to his property through the property of the respondent. So that, the petitioner can have a direct access to his property from the road abutting the property of the respondents.

4. From the part of the petitioner, Ext.A1 and A2 were marked. The commission report and sketch were marked as Ext.C1 and C2. From the part of the respondents, Ext. B1 was marked.

5. Heard both sides.

6. The point arising for consideration are :-

- 1 - Whether the petitioner is entitled to an order of temporary injunction as sought for?
- 2 - what shall be the orders to be passed?

7. Point No. 1: - The learned counsel for the petitioner argued that the first document produced is the title document (Ext.A1). The tax receipt (Ext.A2) also is produced regarding the petition schedule property. The learned counsel pointed out that the commissioner also reported in the report (Ext.C1) that the western boundary of the petition schedule property is the public road. The petitioner schedule property is situated within well demarcated boundaries. The respondent has no right to

obstruct the petitioner. There is a prima facie case, the balance of convenience is in the part of the petitioner. If the injunction is not allowed, the petitioner would be put to irreparable loss and hardships.

8. The learned counsel for the respondents argued that the objection to the commission report is filed. There is no property for the petitioner as depicted in the report. The commissioner inspected the property ex parte and as shown to him by the petitioner. The learned counsel also argued that he produced the document (Ext.B1) number LA/382/69/TNLY(TSLY)/C5 issued from the Tahsildar, Mananthavady which pertains to the petition schedule property. Ext.B1 is the document by which the father of the petitioner owned the property. In Ext.B1, the western boundary of the petition schedule property is not a road, but the property of the defendants. Hence the petition averments are not true. Hence the document Ext.A1 is a sham document. The learned counsel pointed out that as per Ext.A1 document it mentions the property to an extend more than that mentioned in Ext.B1 document. The learned counsel also pointed out that in Ext.B1 document, it is stated that the western boundary is the property of the defendants. The petitioner purposefully suppressed the said document. The road is there only on the eastern side of the property. The petitioner is silent with regard to any sale deed and with regard to any transaction as to how the property got added to Ext.A1. Hence the petitioner has come before the court without bonafides. The balance of convenience is with the respondents. If the petition is allowed, the respondents would be put to irreparable loss and hardships.

9. The learned counsel for the petitioner replied that the commission inspection was conducted after due notice to the parties. The petitioner has specifically pleaded that the western boundary constitutes the property of the defendant and the road. The purpose of the injunction is to preserve the property and the rights of the parties in order to facilitate the trial. The fact that the road exists on the western side of the property is reported by the commissioner. Mere argument is not sufficient from the part of the respondents. If their contention is that Ext. A1 is a sham document, there ought to have been some action from their part. There is no case for the respondents that they have taken any steps to set aside such a document if it takes in their property also. Hence that contention is merely for the sake of argument.

10. From the above discussion evaluating the records before the court it is seen that the petitioner has set up a prima facie case. The commissioner also reported the existence of the road on the western side of the property. The possession of the property is also reported. The validity of the documents and the averments are to be decided later after the trial. It is found that the balance of convenience is in the part of the petitioner. It is also seen that irreparable injury would be caused if the injunction is not allowed. Hence, in the interest of justice, it is seen that there has to be an order of interim injunction. Accordingly, this point is found in favour of the petitioner.

11. Point number 2 : - In the light of the discussion in Point number 1, it is found that there has to be an order of interim injunction restraining the respondents and their men or agents from trespassing into petition schedule property or committing any act of waste thereon or

altering its present nature and conditions or denying the access to the petition schedule property from the road at the western side or interfering in any manner with the peaceful possession and enjoyment of the petition schedule property until further orders.

(Pronounced by me in open court on this the 28th day of February, 2026)

MUNSIFF-MAGISTRATE

APPENDIX

Plaintiff's Witness: Nil

Plaintiff's Exhibits:

A1 – 21.07.2021 – Copy of settlement deed No.1571/2021 of
SRO, Mananthavady

A2 – 25.04.2024 – Tax receipt No.KL12011501609/2024

Defendant's Exhibits:

B1 – 04.01.2012 – RTI copy of Patta No.LA/382/69/TNLY
(TSLY)/C5

Court's Exhibits:

C1 – 27.11.2024 – Commission report

C2 – 27.11.2024 – Rough Sketch

Court's Witness : NIL

Defendant's Witness: NIL

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