

IN THE COURT OF THE I ADDL. DISTRICT JUDGE, ERNAKULAM

Present:-

Sri. K.N Ajithkumar , Ist Additional District Judge
Wednesday, 19th day of November, 2025/28th Karthika, 1947

I.A No.3/2025 in IA No. 1/2025
in A.S. No. 52/2025

Petitioner/Respondent :-

Kattiappurath A Valsalan, Aged 80 years, Retired Teacher, S/o. Late Abraham, residing at Kattiappurath House, Rose Garden, Eliankunnu, Mulanthuruthy, Mulathuruthy Village, Kanayannoor Taluk, Ernakulam District, Pin- 682 314.

By Advs. M.N Manmadan, P L.Mohammed Sooraj,
Babilu Baby, Rahul K Pradeep, R Kavya

Respondent/Appellant :-

K A Baby, Aged 76 years, Kattiappurath House, Piramadom, Onakkoor Village, Ernakulam District, Pin- 686 667.

By Advs. Jacob Chacko, George Joseph Ittankulangara

This petition filed under Section 151 of the Code of Civil Procedure to modify the stay order granted by this court.

This petition coming on for hearing on 15.11.2025 and the court on 19.11.2025 passed the following:-

O R D E R

1. The above I.A has been filed by the respondent seeking to modify the stay order granted by this court.
2. The petitioner (plaintiff in the Trial court) claims that the decree, appealed here, favoured him, by allowing the prohibitory injunction from trespassing into plaintiff A schedule property and fixation of boundary of few of items of A schedule property and a mandatory

injunction to evict the appellant from the building in the A schedule property. This Court stayed the decree's execution, but now, under that stay's 'cover', the appellant is blocking the respondent's entry into A Schedule property, even threatening workers. The petitioner/plaintiff is staying away fearfully.

3. On the other side the appellant opposed the same by arguing that if the plaintiff/petitioner will be allowed to enter into the property, there will be a hardship to the appellant. Therefore, the petition is to be dismissed.
4. On going through the records, the plaintiff filed OS 166/1996 seeking the fixation of the boundary and a mandatory injunction to evict the appellant from the plaint schedule property. The suit was decreed in favour of the plaintiff. Against which the defendant preferred this appeal. At the time of hearing, the execution of the decree was stayed by this court. At the time of the argument of I.A 01/2025, the appellant submitted if impugned order is not stayed, the alleged electric connection will be dismantled, causing harm. Therefore, the execution is stayed. Based on the stay order, the defendant kept occupying the plaint schedule building in the Plot Nos. 10 & 16 (C4(a) plan). But, the defendant has not produced any title deed proving ownership of the building and the said plot. He claims that all these properties were

allotted to him by his father. Thereby, he had constructed a house and was residing in the said house. Therefore, he cannot be evicted from the property. As per the decree passed by the Trial Court, there are total 7 reliefs were granted by the Trial Court to the plaintiff. The 4th relief was that the defendant shall surrender vacant possession of the building situated in the plaint schedule item No.4 within 90 days. The other relief granted to the plaintiff is that the defendant is restrained from trespassing upon plaint A schedule property. The plaintiff's grievance is that, notwithstanding the decree in his favour, he is presently restrained from entering the property rightfully belonging to him. In the circumstances, this Court finds it necessary to modify the existing stay order to address the equities of the situation. Therefore, this court found that a modification is necessary.

In the result, the stay order is modified and confined to the 4th relief only. I.A. is allowed accordingly.

Dictated to the Confidential Assistant, transcribed and typed by him, corrected by me and pronounced in open court on this the 19th day of November, 2025.

Sd/-

K N Ajith Kumar
Additional District Judge- I

Order in
I.A. No. 3/2025 in
A.S. No. 52/2025
Dated.19.11.2025