

STATE OF KERALA
IN THE SUBORDINATE JUDGE'S COURT, ERNAKULAM

Present :

Smt.Reshma Sasidharan, Additional Sub Judge–II

Thursday, the 09th day of October, 2025/17th Ashwina, 1947

IA No. 8/2024 in OS No. 9/2021

**Petitioners/
Plaintiff:-**

Shiffin Grace, Aged 42 years, D/o. Late Chakkappan,
Chathanat House, Chirakkakam, Varapuzha. P.O., Pin-
683 517, Ernakulam District.

By Adv. Saigi Jacob Palatty.

**Respondents/
Defendants:-**

- 1 Rapheal P.J, aged 68, S/o. Late Chakkappan,
Polakattu House, Kunnumpuram. P.O-682 024,
Edappally North, Ernakulam District.
- 2 Thomas Pious P.J, aged 63, S/o.Late Chakkappan,
Polakattu House, Kunnumpuram. P.O - 682 024,
Edappally North, Ernakulam District.
- 3 Victoria James, aged 55, D/o. Late Chakkappan,
Pulikkal House, Azheekal. P.O - 682 510., East Vypin,
Church Lane No. 4, Ernakulam District.
- 4 Maria Nancy P.J, Aged 57, D/o. Late Chakkappan,
C/o. Dominic C L, Cherukodath House,
Karuthedam P.O., Near Old Boat Jetty,
Malippuram, Ernakulam District.
- 5 Christina Murphy, aged 61, D/o.Late Chakkappan,
Mathirappilly House, Edayakkunnam,
M.R Rocky Road, Cheranallor, Ernakulam District.
- 6 Philomina George, Aged 65, D/o. Late Chakkappan,
Kuttikattu House, Near St. Antony's Church,
Kaloor, Ernakulam District.
- 7 Elizabeth Sunny, Aged 49, D/o. Late Chakkappan,
Variyath House, Cheranallor. P.O.,
Near Al- Farookhia School, Ernakulam District.

8 Walter P.J, aged 53, S/o. Late Chakkappan,
Polakattu House, Kunnumpuram.P.O-682 024
Edapally North, Ernakulam District .

**R1, R2 & R8- By Advs. Annamma Philip,
Nishin Goerge & Vijayababu.
R3-By Adv. Anu S Nair
R4 to R7 - No Vakalath**

This petition filed under Order 6 Rule 17 of Civil Procedure Code to pass an order of amendment.

This petition coming on for hearing before me on 09.10.2025 and the Court on the same day passed the following :

ORDER

This is a petition filed by the plaintiff in the above suit to amend the plaint under Order VI Rule 17 of CPC.

2. The petition averments in brief are as follows:- The suit is for partition. The plaintiff is claiming for 1/9 share in the plaint schedule property i.e 67 Ares. The defendants 1,2 and 8 filed written statement and submitted that the plaintiff and the defendants partitioned the plaint schedule property as per the partition deed No.1574/1990 of Edappally SRO on 02.05.1990. On 02.05.1990 the plaintiff was a minor and was of age 11 years only. Hence she could not execute any document as alleged. The defendants 1,2 and 8 further alleged that on 17.01.2000 the plaintiff along with late Chakkappan , defendant Nos. 2, 3 and 7 transferred 5.97 Ares of land to the 8th

defendant as per sale deed No.5516/2000 of Edappaly SRO. The defendants further alleged that on 26.12.2007 the plaintiff along with defendant Nos 2, 3 , 7 and 8 executed a partition deed vide document No.7287/2007 of Edappaly SRO. As far as the plaintiff is concerned she has no knowledge or information about the execution of the said deeds. She did not execute any such document. It is a clear case of fraud committed on the plaintiff and she has not received any sale consideration on any of such transfer. The plaintiff came to know about the execution of those deeds only when the defendants filed written statement. The documents stated by the defendants in their written statement are falsely created without the knowledge of the plaintiff . The counsel for the plaintiff filed IA 3/2023 in the above suit seeking production of the above documents by the defendants as they are the custodian of the same. Even though the counsel for the plaintiff was entrusted with the responsibility to take urgent steps for amending the pleadings no steps were taken. The plaintiff has therefore changed her counsel and it has now become absolutely necessary , in the interest of justice and to avoid miscarriage of justice to amend the pleadings so as to seek the prayer for declaration to set aside the above document and adjudge the matter. Otherwise it will cause irreparable injury and

hardship to the plaintiff. This amendment is preferred within time as the plaintiff came to know about the above deeds only when the defendant filed their written statement. Apart from that the plaintiff is also entitled to get relaxation for the period 15.03.2020 till 28.02.2022 as per the order of the Hon'ble Supreme Court of India for excluding the above period for the purpose of limitation. Therefore this petition is filed for amending the plaint.

3. The defendants 1 and 2 filed objection stating that the above petition is not maintainable. These defendants filed their written statement on 09.08.2021 and clearly stated about the execution of the documents. The plaintiff has filed the above petition and the above suit for partition after concealing the true facts. The plaintiff, defendants and their father partitioned the plaint schedule property vide deed No.1574/1990 on 02.05.1990. As per the said partition deed the plaintiff became the co-owner of A schedule property in the partition deed. At the time of execution of partition deed father and mother of plaintiff and defendant were alive. Father of the plaintiff and defendant signed in the aforesaid deed as per the conditions of Gift deed No.28/64 of Edappally SRO. Knowing the above stated facts the plaintiff is purposefully trying to mislead this Court for achieving her goals. On

17.01.2000 the plaintiff along with late Chakkappan Defendant Nos.2, 3 and 7 transferred 14.750 cents of land to 8th defendant vide sale deed No.5516/2000 of Edappally SRO. The plaintiff received sale consideration and utilized it for her own use. Again on 26.12.2007 the plaintiff along with defendant Nos.2, 3 , 7 and 8 executed a partition deed and as per the said deed A schedule property is allotted to 2nd defendant, B schedule property is allotted to 8th defendant and C schedule property is together allotted to plaintiff, 3rd defendant and 7th defendant. The plaintiff is the co-owner of C schedule property in the Partition deed No.7287/2007. As per that she is the co-owner of 75 cents of property along with D3 and D7. The plaintiff's share is 25 cents and its market value is Rs.75 lakh. This petition is only filed on an experimental basis by the plaintiff. Therefore it is to be dismissed.

4. Heard both sides

5. The points that arise for consideration are:-

1. Is the prayer for amendment of plaint allowable?
2. Relief and costs?

Point No.1

6. The above suit is filed for partition. The plaintiff / petitioner and the defendants are the legal heirs of late Chakkappan and Kochu

Thressia. The property of extent 67 Ares originally belonged to one Raphel, father of said Chakkappan. This property is the plaint schedule property. Raphel executed a Gift deed in the year 1964 gifting the said property in favour of the children of his son Chakkappan. Thus as per the Gift deed No.28/1964 the plaint schedule property of extent 67 Ares was gifted by Raphel to his grandchildren and till this date the plaint schedule property is not partitioned. It is submitted that in the year 2007 the defendants 1 and 2 approached the plaintiff to meet the expenses in fixing the boundaries and also to construct a compound wall on four sides of property so as to protect the same. They had planned to take a loan for an amount of Rs. 3 lakh from SBI. The plaintiff on the belief that the said amount will be used for the purpose of above stated construction gave her consent in writing by putting signatures in two stamp papers and also in two other papers brought by D1 to D3. Believing the words of D1 and D2 who are none other than her brothers, the plaintiff signed in blank stamp papers and blank papers. Thereafter in the year 2008 D1 and D2 told the plaintiff that the loan was approved by the bank. The plaintiff when visited the plaint schedule property it was found that the property was cleaned and cleared as assured by D1 And D2. But the defendants 1 and 2 did not construct the

boundary wall as promised. Thereafter the plaintiff requested on different occasions to partition the plaint schedule property. At that time also the defendants assured her that it will be effected at the earliest. On 12.02.2020 the plaintiff directly approached the defendants but they were reluctant to her request. The plaintiff is in utmost need of her share in the plaint schedule property. She is co- owner of the property and the defendants have no exclusive right over the same. After filing of the above suit the defendants entered appearance and filed written statement. On perusal of the written statement filed by the defendants 1, 2 and 8, only the plaintiff came to know about the execution of the Partition deed No.1574/1990, Sale deed No. 5516/2000 and Partition deed No.7287/2007. Even though IA 3/2023 was filed by the plaintiff for directing the defendants to produce the original of the above stated partition deeds and sale deeds the same was dismissed by this Court on 04.03.2023 on the ground that the petition is filed on the day when the matter was listed. Whether the above stated documents were executed or not and whether the plaintiff's case is true or not can be ascertained only after adducing evidence in the above case. The plaintiff has come to know about the execution of the said documents only through the written statement filed by the defendants. In between since there existed

Covid 19 protocol the plaintiff was unable to file amendment petition on time. Therefore it is found this petition is filed within a reasonable time and there is no willful latches or negligence on the part of the plaintiff. If this amendment petition is not allowed then the plaintiff will not be able to prosecute the matter effectively. Even if the amendment is allowed the defendants can file additional written statement and therefore no prejudice will be caused to them as such. Therefore I am of the view that a lenient view can be taken in the above matter in favour of the petitioner.

Point No.2

In the result,

1. This amendment petition is allowed .
2. Carry out the amendment
3. No order as to costs.

Dictated to the Confidential Assistant, transcribed by him, corrected and pronounced by me, in the open court on this 09th day of October, 2025.

**Sd/-
Reshma Sasidharan
Additional Sub Judge - II**

APPENDIX:Nil

**Id/-
Additional Sub Judge - II**

Typed by :Laj
Comp.by :Smg:

ORDER
in IA No. 8/2024
in OS No.9/2021
Dated: 09.10.2025