

IN THE COURT OF THE SUB JUDGE, MUVATTUPUZHA

Present:- Sri. Aravind B. Edayodi, Sub Judge
Tuesday, the 07th day of January 2023/18th Magha 1944

O.S Nos. 37/2015 & 75/2020**O.S No. 37/2015****Plaintiff:-**

K.R.Sreekumar aged 48 years S/o Raman Namboothiri,
Kovattillam, Mutholapuram Kara, Elanji Village.

By Advs. M/s. N Ramesh & Raju P V

Defendants:-

1. Raman Namboothiri aged 81 years, S/o Raman Namboothiri, Kovattillam, Mutholapuram Kara, Elanji Village.
 2. Ganga Devi Antherjanam aged 76 years, W/o Raman Namboothiri, Kovattillam, Mutholapuram Kara, Elanji Village.
 3. Chandrika Devi aged 55 years W/o Narayanan Namboothiri, Pandathil Illam, Edamattom P.O., Bharnaganam, Meenachil Tauk.
 4. Raman Namboothiri aged 51 years, S/o Raman Namboothiri, Kovattillam, Mutholapuram Kara, Elanji Village.
 5. Jayasree aged 44 years W/o Narayanan Namboothiri, Chandramana Illam, Kundoor P.O., Erattupetta, Kottayam District.
- Addl. Pious, S/o Antony, aged about 56, Kizhakke Aranjaniyil D6. House, Mutholapuram, Elenji Village, Muvattupuzha Taluk.
- Addl. Prakash S/o Kuttappan, aged about 55, Thenakkattel D7. House, Mutholapuram Kara, Elenji Village, Muvattupuzha Taluk.
- Addl. Reji W/o Prakash, aged about 45, Thenakkattel House, D8. Mutholapuram Kara, Elenji Village, Muvattupuzha Taluk.

Addl. Vasu S/o Kesavan, aged about 62, Parayil House,
D9. Mutholapuram, Elanji, Muvattupuzha Taluk.

Addl. D6 to D9 are impleaded as per order in I.A. 1/20
dated 15.01.2021.

D1 to D5 By Advs. M/s. R Harikrishnan & M Jayalal

D6 to D9 By Advs. M/s. Paul Mathew & Sheeja Mole

O.S No. 75/2020

Plaintiff:-

K.R.Sreekumar aged 49 years S/o Raman Namboothiri,
Kovattu Illam, Mutholapuram Kara, Elanji Village.

By Advs. M/s. N Ramesh & Sanitha T R

Defendants:-

1. Joseph aged about 45 years, S/o Chandy,
Pachappathikkal House, Mutholapuram Kara, Elanji
Village.
2. Raman Namboothiri aged 83 years, S/o Raman
Namboothiri, Kovattu Illam, Mutholapuram Kara, Elanji
Village.
3. Raman Namboothiri aged 52 years, S/o Raman
Namboothiri, Kovattillom, Mutholapuram Kara, Elanji
Village.

Addl. Ganga Devi Antherjanam aged about 76, W/o Raman
D4. Namboothiri, Kovattillam, Mutholapuram Kara, Elanji
Village.

Addl. Chandrika Devi W/o Narayanan Namboothiri aged about
D5. 55, Pandathil Illam Edamattom P.O, Bharananganam,
Palai.

Addl. Jayasree W/o Narayanan Namboothiri, aged 46,
D6. Chandramana Illam, Kundoor P.O., Erattupetta,
Kottayam District.

Addl. D4 to D6 are impleaded as per order in I.A. 2/22
dated 14.11.2022.

D1 By Advs. M/s. Paul Mathew & Babitha T H
D2 & D3 By Advs. M/s. M Jayalal & R Harikrishnan
D4 to D6 Ex-parte

These suit are filed under Section 26 read with Order VII Rule I of the CPC 1908 for partition and injunction.

These suits coming on for final hearing on 21st day of January 2023 in the presence of M/s. N Ramesh, Raju P V & Sanitha T R, Advocates for the plaintiff and M/s. R Harikrishnan & M Jayalal, M/s. Paul Mathew, Sheeja Mole & Babitha T H, Advocates of the defendants and having stood over for consideration of entire records to this day, the Court delivered the following:-

COMMON JUDGMENT

O.S.37/2015:- Suit is for partition and injunction.

2. The pleadings of the plaintiff in brief state as follows: Plaint schedule properties were originally belonged to Raman Namboothiri, Kovattillam, Elanji. After the death of Raman Namboothiri, the properties of the illam including the plaint schedule properties were partitioned as per deed No. 2422/1115 ME, of SRO Koothattukulam between his two sons, Raman Namboothiri, son of Raman Namboothiri represented by one sakha and Neelankandan Namboothiri, son of Raman Namboothiri represented by the other sakha. Plaint schedule properties, with a total area of 3 Acre 66 cents allotted in favour of the sakha of Raman Namboothiri. Plaintiff is the great grand son of above Raman Namboothiri.

3. The genealogy of parties also stated in the plaint. Plaintiff and defendants 3 to 5 are the children of defendants 1 and 2. Plaintiff and defendants are Malayala Brahmins governed by Hindu Mithakshara Law modified by custom, usage or by statute. The plaintiff was born in 1968 and 4th defendant was born in 1965. The only surviving members of the coparcenary are plaintiff and defendants 1 and 4, as on 1.12.1976, when Kerala Joint Hindu Family System (Abolition) Act 1976 came into force. Therefore plaintiff and defendants 1 and 4 are entitled to plaint schedule property by stripes and each are entitled to 1/3rd share in plaint schedule property. Females are not coparceners and they are not entitled to any share in the plaint schedule property.

4. Plaintiff is residing alongwith his family, in the portion of tharavad house. When plaintiff constructed a small house in plaint schedule property, defendants obstructed. Though plaintiff demanded partition of plaint schedule property, defendants 1 and 4 refused the demand.

5. In the above circumstance plaintiff sought for a decree of partition of plaint schedule property into three equal shares, and allot one share in favour of plaintiff. Plaintiff also sought for a decree of permanent prohibitory injunction restraining the defendants or persons under them from alienating the plaint schedule property or committing any act of waste in plaint schedule property, with costs of the suit.

6. Defendants 1 and 2, the father and mother of the plaintiff filed written statement stating as per partition deed No. 2422/1115ME, of SRO Koothattukulam, plaint schedule property

is allotted in favour of 1st defendant alone. Hence plaintiff is not a co-owner of plaint schedule property as claimed. Hence suit is liable to be dismissed.

7. Defendants 3 to 5 filed written statement stating marriage of 3rd defendant was held on 1.6.1985 and the marriage of 5th defendant held on 09.09.1994. Defendants 3 to 5 are also co-owners of plaint schedule property and they are entitled to 1/5th share each over plaint schedule property.

8. Subsequently plaint was amended and additional defendants (defendants 6 to 9) were impleaded. According to plaintiff, 1st defendant transferred property in favour of 6th defendant as per sale deed No.1648/1984, of SRO Koothattukulam which is described as plaint B schedule property. The 1st defendant also sold plaint C schedule property forming part of plaint A schedule property in favour of 7th and 8th defendants as per sale deed No.1649/1994 and the above property is described in plaint C schedule. The 1st defendant also sold property forming part of plaint A schedule property as per sale deed No.209/1990 in favour of Sreedharan and his wife Meenakshi and they assigned the above property in favour of one Shaji as per settlement deed No.1144/2005 and which sold in favour of 9th defendant as per sale deed No.959/2012. The above property is described in plaint D schedule.

9. As per provision of Hindu Mithakshara Law of inheritance, 1st defendant alone has no right to dispose the property in which plaintiff and 4th defendant also had right. Hence

the above transfers are void and plaintiff is entitled to get 1/3 right over plaint B, C, D schedule properties also.

10. Subsequently plaintiff again amended the plaint, stating after the commencement of Kerala Namboothiris Act 1958, the female members of the Namboothiri family also entitled to get equal right with male members over the family property. Hence defendants 2, 3 and 5 who were the female family members in the family during the period from 1958 to 1.12.1976 when Kerala Joint Hindu Family System Abolition Act 1976 came into force, are also entitled too, inherit the property along with male coparceners. Hence plaintiff is entitled to 1/6 right over plaint schedule properties and defendants 1 to 5 are entitled to get 1/6 right over plaint schedule properties.

11. Defendants 6 to 9 filed written statement admitting that they purchased property forming part of plaint A schedule property. The 1st defendant became sole owner of property, allotted in favour of his father as per partition deed No.2422/1115ME, of SRO Koothattukulam, after 1st defendant's father's death. It is not correct that plaintiff and defendants 1 to 4 are governed by Hindu Mithakshara Law subject to modification and denied the right of plaintiff claimed over the property as coparcener.

12. According to defendants 6 to 9 they became absolute title owners of property transferred in their favour as per registered deeds. Documents executed by first defendant with respect to plaint schedule properties are valid. The valuation of

the plaint and court fee remitted are not correct. Plaintiff was well aware of the documents by which property transferred in favour of defendants 6 to 9, which originally transferred by the 1st defendant. Plaintiff is not entitled to get any relief against defendants 6 to 9 and suit is barred by limitation. Even if plaintiff had any right over plaint schedule property, that is lost by ouster by long continuous possession of defendants. Hence suit is liable to be dismissed.

13. O.S.75/2020:- Suit is for partition.

14. The averments in the plaint in brief state as follows: Plaint schedule property originally belonged to Raman Namboothiri, Kovattu Illam, Elanji, the great grand father of plaintiff. After the death of Raman Namboothiri, properties belonged to the illam, were partitioned as per deed No. 2422/1115 ME, of SRO Koothattukulam between two sakhas represented by his two sons Raman Namboothiri, son of Raman Namboothiri represented by one sakha and other sakha represented by Neelankandan Namboothiri, son of Raman Namboothiri. Plaint schedule property is the property allotted in favour of the sakha of Raman Namboothiri.

15. The properties including plaint A schedule property was allotted to the sakha consisting of Raman Namboothiri, his wife Thatha Antharjanam and their son Raman Namboothiri, who are the paternal grand father, paternal grand mother and father of plaintiff respectively.

16. It has come to the notice of plaintiff that plaintiff's father together with plaintiff's brother executed sale deed No. 2175/1986 in respect of plaint schedule property on 04.11.1986, by falsely stating that plaintiff was a minor represented by his father. Actually the document was executed by the father and brother of plaintiff in order to deprive legitimate share of plaintiff in plaint schedule property. The above deed was executed when plaintiff was a major.

17. The execution of above document was not within the knowledge of plaintiff till plaintiff obtained copy of above document on 9.10.2015, from SRO Koothattukulam. The above document was executed by the father and brother of plaintiff falsely stating that plaintiff is a minor will not bind upon right of plaintiff over plaint schedule property. The property transferred by the 2nd and 3rd defendants, father and brother of plaintiff, presently is in the hands of 1st defendant.

18. Plaintiff and defendants 2 and 3 are Malayala Brahmins governed by Hindu Mithakshara Law modified by custom, usage or by statute. The plaintiff was born on 15.4.1968. The only surviving members of the coparcenary were plaintiff and defendants 2 and 3, as on 1.12.1976, when Kerala Joint Hindu Family System (Abolition) Act 1976 came into force. Therefore plaintiff and defendants 2 and 3 are entitled to plaint schedule property by stripes, and each are entitled to 1/3rd share in plaint schedule property. Females are not coparceners and they are not entitled to any share in the plaint schedule property. Plaint schedule property is the property forming part of property allotted

to the sakha of Raman Namboothiri as per partition deed No. 2422/1115 ME.

19. In the above circumstance plaintiff sought for a decree of partition of plaint schedule property into 3 equal shares, and to allot one share in favour of plaintiff, with costs of the suit.

20. During the pendency of the suit, defendants 4 to 6 were impleaded stating they were members of the family as on 1.12.1976 when Kerala Joint Hindu Family System (Abolition Act 1976) came into force.

21. Subsequently plaint amended, as per order in I.A.2/2022, stating by virtue of Namboothiris Act 1958, the female members also will get equal right over family property. Hence plaintiff is only entitled to 1/6 right over plaint schedule property and plaintiff and defendants 2 to 6 are entitled to 1/6 share in plaint schedule property per stripes. Plaintiff also paid court fee showing value of the share of property entitled to plaintiff based on the contention raised by the defendants regarding court fee.

22. First defendant filed written statement and additional written statement stating that Raman Namboothiri, father of plaintiff and Raman Namboothiri, brother of plaintiff executed sale deed No. 2175/1986 which is a valid document and plaintiff has no right over the property transferred. Plaintiff and his brother Raman Namboothiri are not parties to document No.2422/1115ME. Hence plaintiff has no right over plaint schedule property. The valuation of suit and court fee paid are not correct.

Hence suit is liable to be dismissed.

23. The 2nd and 3rd defendants filed written statement stating that neither the plaintiff nor his predecessor party in document No.2422/1115 of ME, of SRO Koothattukulam, are not co-owner of plaint schedule property. The surviving member of property in document No. 2422/1115ME, of SRO Koothattukulam is 2nd defendant alone. From the date of transfer, the transferee is in exclusive possession of plaint schedule property. The cause of action alleged is false. Court fee paid is not correct as plaintiff did not pay court fee under section 37(1) of Kerala Court Fees and Suit Valuation Act.

24. Though 1st defendant filed written statement, at the time of hearing the learned counsel for the 1st defendant submitted, that no instruction from 1st defendant.

25. D4 to D6 are exparte in the proceeding.

26. On the basis of the pleading of the plaintiff and defendants, the following issues framed in O.S.37/2015 and O.S.75/2020:

Issues in O.S.37/2015:

1. Whether plaintiff is co-owner of schedule property?
2. Whether plaintiff is entitled to get a decree as

prayed?

3. Whether scheduled property is partible one?
4. Whether valuation of scheduled property is correct?
5. Relief and costs.

Additional issues

6. Whether right claimed by plaintiff over plaint schedule property is lost by ouster and adverse possession?
7. Whether plaintiff is entitled to plaint schedule property as coparcenary as claimed?

Issues in O.S.75/2020

1. Is the plaintiff, a co-owner of the plaint schedule property as claimed?
2. Is the plaint schedule property partible, if so, what shall be the shares entitled to by the parties?
3. Equities if any?
4. Reliefs and costs?

27. In the joint trial, in which O.S.37/2015 is the leading case, from the side of the plaintiff, PW1 is examined. Ext.A1 to

Ext.A8 documents are marked. From the side of defendants, DW1 to DW3 are examined. Ext.B1 and Ext.B2 documents are marked. The commission report is marked as Ext.C1. At the time of trial, 1st defendant in O.S.75/2020 was absent and learned counsel for 1st defendant submitted that no instruction from the 1st defendant.

28. Heard both sides.

29. Issue No. 4 in O.S.37/15 regarding valuation and court fee need not be considered, as the plaintiff amended the plaint valuing the relief as provided under Section 37(1) of Kerala Court Fees and Suit Valuation Act, admittedly the contention raised by the contesting defendants.

30. Issues No.1 to 3 in O.S.75/2020 and Issues No.1 to 3 and Addl. Issue No.6 and 7 in O.S.37/2015: According to the plaintiff, he is entitled to 1/6 right over plaint schedule property being a coparcenary along with defendants 1 to 5 in O.S37/2015 and defendants 2 and 3 and 4 to 6, in O.S.75/2020 as per Kerala Namboothiris Act 1958, by which female members of Namboothiri family also entitled to get equal right over family property, when notional partition of joint family of plaintiff took place, when Kerala Joint Hindu Family System (Abolition) Act 1976 came into force on 01.12.1976.

31. According to the contesting defendants plaintiff is not entitled to plaint schedule property being a coparcener, as the property exclusively entitled to Raman Namboothiri, grand father of plaintiff as per title deed No.2422/1115ME, of SRO

Koothattukulam and father of plaintiff inherited the right of grand father of plaintiff over the property on his death. Deed No. 2422/1115ME is produced and marked as Ext.A1. From perusal of Ext.A1 deed it could be seen that property including plaint A schedule property is partitioned per stripes, towards the sakha represented by Raman Namboothiri. There is no dispute that plaintiff is not the grandson of above Raman Namboothiri. Defendants could not explain how the joint family property allotted in favour of the sakha of Raman Namboothiri became the personal property of the father of plaintiff alone. Defendants did not deny the averment in the plaint that plaint schedule property is not forming part of property partitioned as per deed No. 2422/1115ME of SRO Koothattukulam in which the property was allotted in favour of the sakha of Raman Namboothiri, the grand father of plaintiff. From the evidence adduced by plaintiff as PW1, plaintiff could prove that he along with other family members are Malayali Brahmins (Namboothiris) and they are governed by Mithakshara law and Namboothiris Act 1958, by which female members of the Namboothiri family will also get equal right along with male members. There is no dispute that notional partition of every hindu joint family in Kerala took place on 1.12.1976, the date on which Kerala Joint Hindu Family System (Abolition) Act 1976 came into force. Hence plaintiff could prove that he is entitled to 1/6th share over plaint schedule properties along with defendants 1 to 5 in O.S.37/2015 and defendants 2 to 6 in O.S.75/2020.

32. Regarding O.S.37/2015, defendants 6 to 9 claimed exclusive right over plaint B, C and D schedule properties

transferred in their favour as per sale deeds which was based on transfer made by the 1st defendant, father of plaintiff, which is admittedly forming part of plaint A schedule property seeking partition. 6th defendant Pious claimed exclusive right over plaint B schedule property as per sale deed No. 1648/1984, of SRO Koothattukulam executed by 1st defendant. The 1st defendant sold property forming part of plaint A schedule property described as plaint C schedule property in favour of 7th defendant Prakash and his wife Reji (8th defendant) as per deed No. 1649/1994. The 9th defendant claimed exclusive right over plaint D schedule property as per sale deed No.959/2012 which was previously transferred by 1st defendant in favour of Sreedharan and his wife Meenakshi as per sale deed No. 209/1990.

33. From the evidence it is proved that 1st defendant had no exclusive title or possession over plaint B, C, D schedule properties forming part of plaint A schedule property in O.S.37/2015 which was allotted towards the sakha of Raman Namboothiri, grand father of plaintiff, on which plaintiff also had right as a coparcener, as on 1.12.1976, when Kerala Joint Hindu Family System (Abolition Act) 1976 came into force. Hence defendants who purchased plaint B, C, D schedule properties from 1st defendant, forming part of plaint A schedule property, on which plaintiff also had right, did not acquire right of plaintiff over the property being the co-owner. Though the defendants who purchased plaint B schedule property raised a contention that the right of plaintiff is lost by law of limitation and ouster, the evidence adduced by the defendants who purchased property shows that they purchased and possessed property as the property

exclusively entitled to 1st defendant Raman Namboothiri, the father of plaintiff and they never possessed property, with animus intention against the plaintiff. Hence the contention raised by the defendants who purchased property against the decree of partition sought by the plaintiff on the ground of adverse possession and ouster is not sustainable.

34. Plaintiff is entitled to 1/6th right over plaint schedule properties in O.S.75/2020 also on same reason.

35. Another contention raised by the contesting defendants against the partition sought by the plaintiff is that the 2nd suit preferred by the plaintiff is barred under Order 2 Rule 2 CPC for the reason that plaintiff preferred the suit for partition claiming right of property entitled to him as per the same deed, ie, Ext.A1 deed. From the close reading of the pleadings of the plaintiff in O.S.37/2015 and O.S.75/20, it could be seen that though plaintiff claimed partition over plaint schedule properties, claiming right over same deed, the cause of action for the suits are different, properties seeking partition are different and plaintiff instituted O.S.37/2015 with a cause of action that defendants 1 to 5 obstructed him from constructing a house in plaint schedule property on which plaintiff also had co-ownership. In O.S.75/2020 the cause of action arose when plaintiff came to know about the execution of sale deed No.2175/1986, by his father and brother, stating plaintiff is a minor, though he was a major on the date of the deed, and on that basis plaintiff instituted the suit seeking partition of property in which he has right of co-ownership. Hence from the cause of action alleged and from perusal of the

description of property seeking partition, it could be seen that plaintiff did not institute 2nd suit for seeking relief that he already relinquished or that he omitted to sue. Hence the above contention is also not sustainable.

36. The contesting defendants further contended that though plaintiff sought partition on the basis of customary law, he sought relief based on a statute named Kerala Namboothiris Act . Hence the relief sought by plaintiff is not grantable. The above contention is also not sustainable for the reason that the plaintiff specifically pleaded that he is seeking relief based on Mithakshara law modified by custom, usage or by statute.

37. Hence the only possible finding is that plaint schedule properties are partible. Plaintiff is entitled to 1/6th right over plaint schedule properties. Defendants 1 to 5 in O.S.37/15 are also entitled to 1/6th right each over plaint schedule properties. Defendants 2 and 3 and defendants 4 to 6 in O.S.75/20 are also entitled to 1/6th right each over plaint schedule property in O.S.75/2020.

38. From the evidence it is proved that the 1st defendant, father of plaintiff, who had 1/6 right over plaint A schedule property in O.S.37/2015 transferred plaint B, C & D schedule properties, forming part of plaint A schedule property, in favour of 3rd parties which are in the possession of defendants 6 to 9. Hence it is proper to allot plaint B, C and D schedule properties, forming part of plaint A schedule property in O.S. 37/2015 in favour of defendants 6 to 9 towards, the 1/6th share of 1st

defendant, based on equity. Plaint schedule property in O.S.75/2020 is in the possession of 1st defendant, based on the transfer made by 2nd and 3rd defendants, who had 1/6th right each over the property. Hence 1st defendant in O.S.75/2020, is entitled to allot plaint schedule property in O.S.75/2020 to the extent possible towards the share of 2nd and 3rd defendants, who transferred the property in favour of 1st defendant as their property.

39. Regarding plaint schedule property in O.S.37/2015, plaint B schedule property in O.S.37/2015 which is forming part of plaint A schedule property shall be allotted in favour of 6th defendant Pious, who purchased the property from 1st defendant, towards the 1/6th right of 1st defendant over plaint A schedule property found partible on account of equity.

40. Plaint C schedule property in O.S.37/2015 which is forming part of plaint A schedule property shall be jointly allotted in favour of 7th defendant Prakash and 8th defendant Reji who purchased the property from 1st defendant, towards the 1/6th right of 1st defendant over plaint A schedule property in O.S.37/2015 found partible on account of equity.

41. Plaint D schedule property in O.S.37/2015 which is forming part of plaint A schedule property shall be allotted in favour of 9th defendant Vasu, who purchased the property which was transferred by the 1st defendant, towards the 1/6th right of 1st defendant over plaint A schedule property found partible on account of equity.

42. The decree of permanent prohibitory injunction is concerned, it is not proper to grant decree of permanent prohibitory injunction against alienation of plaint schedule property or from committing any act of waste in a suit for partition, as the relief sought for is perpetual in nature. Hence the relief of permanent prohibitory injunction sought by plaintiff is rejected in O.S.37/2015.

43. The issue regarding share of profit, and reservation if any are relegated to final decree proceedings. I find issues in favour of plaintiff, except on the issue regarding injunction.

44. Issue No.5 in O.S.37/2015 and issue No.4 in O.S.75/2020: Considering the facts and circumstance of the case, costs shall come out of the estate.

In the result,

O.S.37/2015 is decreed as follows:-

1. Plaint schedule properties are partible.
2. Plaint A schedule property shall be divided into six equal shares.
3. Plaintiff and defendants 1 to 5 are entitled to one share each over plaint A schedule property.
4. Plaintiff is entitled to separate possession of his allotted share.
5. Plaint B schedule property in O.S.37/2015 which is forming part of plaint A schedule property shall be

allotted in favour of 6th defendant Pious, who purchased the property from 1st defendant, towards the 1/6th right of 1st defendant over plaint A schedule property found partible, after valuation subject to payment of owelty if any, on account of equity.

6. Plaint C schedule property in O.S.37/2015 which is forming part of plaint A schedule property, shall be allotted jointly in favour of 7th defendant Prakash and 8th defendant Reji, who purchased the property from 1st defendant towards the 1/6th right of 1st defendant over plaint A schedule property found partible after valuation subject to payment of owelty if any, on account of equity.

7. Plaint D schedule property in O.S.37/2015 forming part of plaint A schedule property shall be allotted in favour of 9th defendant Vasu, who purchased the property from 1st defendant towards the 1/6th right of 1st defendant over plaint A schedule property found partible after valuation subject to payment of ovelty, on account of equity.

8. Question with respect to reservation if any relegated to final decree proceedings.

9. Costs shall come out of the estate.

10. The case is posted on 13.03.2023, for taking steps for passing final decree on the basis of preliminary decree.

O.S.75/2020 is decreed as follows:

1. Plaintiff schedule property is partible.
2. Plaintiff schedule property shall be divided into six equal shares.
3. Plaintiff and defendants 2 to 6 are entitled to one share each over plaintiff schedule property.
4. Plaintiff is entitled to separate possession of his allotted share.
5. 1st defendant is entitled to allot plaintiff schedule property to the extent possible, valuing the property, on payment of owelty if any, including one share each of 2nd and 3rd defendants, who transferred property in his favour, on account of equity.
6. Question with respect to reservation if any relegated to final decree proceedings.
7. Costs shall come out of the estate.
8. The case is posted on 13.3.2023, for taking steps for passing final decree on the basis of preliminary decree.

Dictated to Confidential Assistant, typed by her directly into computer, corrected by me and pronounced in open court on this the 7th day of February 2023.

Sd/-
Aravind B. Edayodi
Sub Judge

APPENDIX**Plaintiff's Exhibits:-**

A1	0/0/1115ME	Certified copy of partition deed No. 2422/1115 ME of SRO, Koothattukulam
A2	18.07.1994	Certified copy of sale deed No. 1648/1994 of SRO, Koothattukulam
A3	18.07.1994	Certified copy of sale deed No. 1649/1994 of SRO, Koothattukulam
A4	30.01.1990	Certified copy of sale deed No. 209/1990 of SRO, Koothattukulam
A5	03.05.2005	Certified copy of sale deed No. 1144/2005 of SRO, Koothattukulam
A6	10.04.2012	Certified copy of sale deed No. 959/2012 of SRO, Koothattukulam
A7	04.09.1986	Certified copy of sale deed No. 2175/1956 of SRO, Koothattukulam
A8		Original S.S.L.C Book of plaintiff bearing Book No. 48628

Defendants' Exhibits :

B1	10.07.2015	Photo copy of tax receipt of Elanji Village
B2	18.09.2021	Copy of tax receipt of Elanji Village

Court Exhibits :

C1	08.10.2015	Commission report
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Plaintiff's Witness:

PW1	18.02.2022	Sreekumar K R
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Defendants' Witness :

DW1	04.04.2022	Raman Namboothiri
DW2	30.05.2022	Pious Antony
DW3	30.05.2022	Prakash T K

Id/-
Sub Judge

//True Copy//

(By Order)

Sheristadar

Copied by: stn/-
Comp. by : svb

Copy of Common Judgement in

O.S. 37/2015 & 75/2020

Dated: 07.02.2023