

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

Present:

Smt.Priyanka.S., Additional Sub Judge - I

Monday, the 3rd day of February, 2025/14th Magham 1946

OS No. 371/2008

Plaintiffs:

1. Thripunithura Khadi & Village Industries Development Committee, Thripunithura, Thekkumbhagam Village, Kanayannur Taluk represented by its President T.A. Mary, aged 49 years, W/o.Abraham, Pulickathara House, Near Oval Palace Grounds, Nadama Village, Thripunithura, Kanayannur Taluk.
2. Kunjamma M.V., aged 53 years, W/o.Punnam, Mannullil House, Near Old Bus Stand, Puthussery Road, Nadama Village, Kanayannur Taluk, Secretary, Thripunithura Khadi & Village Industries Development Committee, Thripunithura, Thekkumbhagam Village, Kanayannur Taluk.

By Advs. Abraham P. George, A.V. Biju and M.K. Robin Raj.

Defendant:

Gandhi Smaraka Grama Seva Kendram represented by its Secretary Nandiyattukunnam Kara, Paravur Village, Paravur Taluk.

By Advs. C. Anil Kumar, Shahna Karthikeyan and Arun Viswanath.

This suit filed under Section 26 read with Order VII, Rule I of the Code of Civil Procedure, 1908.

This suit came up before me for hearing on 03.02.2025 and this Court on the same day delivered the following:

J U D G M E N T

The suit is for declaration of title over plaint item No.1 to 3 properties and for a decree of permanent prohibitory injunction.

2. It was contended by defendant that market value calculated for the property was not correct and the court fee paid was not sufficient.

3. As per judgment dated 30.06.2023 in OP(c) 2748/2015 of the Hon'ble High Court of Kerala, preliminary issue was raised as follows.

(1) Whether the court fee paid is sufficient ?

4. Both sides were heard on the preliminary issue.

5. **The Preliminary Issue:** The Plaint item No.1 to 3 properties have an extent of 50 cents. Market value of the property is calculated under Section 7(2) of the Kerala Court Fees and Suits Valuation Act, 1959. By virtue of the Section the market value of agricultural land shall be ten times the annual gross profits of such land where it is capable of yielding annual profits minus the assessment if any made to government. By virtue of Section 25 (b) of the Act, in a suit for declaration and for consequential injunction, fee computed shall be ½ of the market value of property or Rs.1,000/- whichever is higher.

6. Defendant produced copy of sale deed in same locality as document No.41207/1/08 of same SRO to show the market value of property in the locality. It was marked as Ext. B1. By virtue of Ext.B1 the total sale consideration for 4.06 Ares (10.050 cents) in Sy.No.104/4, in Thekkumbhagam Village is mentioned as Rs.30,00,000/- (Rupees Thirty Lakhs Only).

7. Plaintiffs produced sale deeds bearing No.3094/79, 3055/79, 3096/79 of SRO, Thrippunithura. They were marked as Ext. A1 to A3 respectively. Ext.A1 to A3 do not show that plaint schedule property is agricultural land.

8. Plaintiffs did not produce any document to show that the nature of land is agricultural property. In the absence of such document the property has to be valued on its market value as per S.7(2) of the Act.

9. In the light of above circumstances it was found that court fee paid was not sufficient. By virtue of **Order VII Rule 11(b) of CPC** plaint shall be rejected if relief claimed is undervalued. In view of said provision, plaintiffs were directed to correct the valuation and remit court fee as per rules on or before 09.01.2025 and **Preliminary issue was found against the petitioners/plaintiffs.**

10. Today when the suit was considered, both plaintiffs and defendant were represented. Learned counsel for plaintiffs sought time to comply the order regarding remittance of court fee.

11. By virtue of Order VII Rule 11(b) of CPC the plaint shall be rejected, where the relief claimed is undivided, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;

12. In the present matter it was found that relief claimed is undervalued, and plaintiffs failed to comply the direction of this court passed on 06.12.2024, to correct the valuation and to remit court fees as per rules, on or before 09.01.2025. In these circumstances plaint is rejected under Order VII Rule 11(b) of CPC.

(Dictated to the Confidential Assistant, transcribed and typed by her corrected and pronounced by me in the open court, on this the 3rd day of February, 2025).

Priyanka.S.
Additional Sub Judge – I

Appendix:

Exhibits marked on the side of plaintiffs:

A1	31.08.1979	Certified copy of Sale deed No.3094/1979.
A2	31.08.1979	Certified copy of Sale Deed No.3095/1979.
A3	31.08.1979	Certified copy of Sale Deed No.3096/1979.

Exhibits marked on the side of defendant:

B1	-	Copy of Sale deed in same locality as document No.41207/1/08 of Thripoonithura SRO to show the market value of property in the locality.
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Exhibits marked on the side of Court: Nil**Witness examined on the side of plaintiff:****Witness examined on the side of defendants:** Nil**Court Witnesses:** Nil**Additional Sub Judge – I**

Typed by : Manju S.
Comp.by : Suma

Judgment in
OS No. 371/2008
Dated: 03.02.2025