

IN THE COURT OF MUNSIFF, WADAKANCHERY

Present:- Sri. Yahya. T. K., Munsiff

Thursday, the 22nd day of January, 2026/ 8th Magham 1947 SEO. S. 103/2022**Plaintiff:**

Shaju, aged 44 years, S/o Kollannur Veettil Mathappan,
Eranellur Village, Kechery Post, Kunnamkulam Taluk,
Thrissur District.

By Adv. K. Arunkumar Kaimal & Shani. K. Krishnan.

Defendants:

1. Johnson, aged 56 years, S/o Thoma, Arakkal House,
Kaiparambu Village and Post, Puthur Desam, Pin Code: 680 546,
Thrissur Taluk, Thrissur District.
2. Jose, aged 65 years, S/o Kuriyappan, Kanjiraparambil House,
Mundur Village, Post and Desam, Pin Code: 680 541, Thrissur Taluk,
Thrissur District.

By Adv. P. I. Lonappan.

This suit is coming on this day for hearing, the Court passed the following:

JUDGMENT

Suit for Injunction.

2. **Summary of the plaint** ; The plaint schedule property absolutely belonged to Martha. Plaintiff is the sister's son of Martha. D1 is the son of another sister of Martha. D2 is the husband of daughter of yet another sister of Martha. Plaintiff and his family is residing in the house situated in the plaint schedule property as per the oral permission given by Martha.

The defendant had been trying to somehow grab the property from Martha. So, they took Martha from plaintiff schedule property and admitted in a conveyance. Now the plaintiff and his family are residing in that house. The defendants are vehemently trying to evict the plaintiff from the house. Hence they should be prohibited by way of a permanent prohibitory injunction. Hence the suit.

3. **Defendant filed written statement as follows** ; The suit is not maintainable either in law or on facts. True that the property belonged to Martha. But, it is incorrect to say that the plaintiff and his family are residing there as per the permission given by Martha. The plaintiff trespassed upon the property illegally. Martha is a necessary party. Defendants never tried to evict the plaintiff. The suit is filed only to regularise illegal activity of the plaintiff. Hence it is prayed that the suit be decreed with costs.

4. The following issues framed for trial ;

1. *Whether the plaintiff is in possession of the plaintiff schedule property ?*
2. *Relief and costs ?*

6. The plaintiff himself got examined as PW1. Ext.A1, A2 and C1 marked from the side of plaintiff. Ext.B1 marked subject to objection raised by the plaintiff. No oral evidence adduced by the defendant.

7. Heard both sides.

8. **Both Issues** ; It is an admitted fact that the property scheduled in the plaintiff schedule belonged to Martha under Ext.A1. Ext.C1 shows that the

plaintiff and his family is residing in the house situated in the plaintiff schedule property as on the date of suit. The case of the plaintiff is that the defendants being the relatives of Martha are trying to somehow grab the property from Martha and in that process they are trying to destroy the occupation of plaintiff in the house situated in plaintiff schedule property. So the suit is filed seeking injunction against the defendants. According to PW1 he entered the house as per the oral permission given by Martha.

9. The defendants on the other hand strongly opposed the plaintiff claim and contended that plaintiff is a rank trespasser and that he had been abusing Martha for the purpose grabbing her property. Ext.B1 was pressed into service in the suit. Ext.B1 cannot be admitted in evidence because it is a photocopy. It does not even contain a signature of Martha. Ext.B1 was marked subject to admissibility. No steps were taken by the defendant either to produce admissible copy of Ext.B1 or to introduce it through a competent witness. Hence Ext.B1 is rejected.

10. Even then there are certain other circumstances which comes against the claim of the plaintiff. Even as per the averments in the plaintiff, the plaintiff schedule property was in the possession of Martha as on the date of the suit. There is specific pleading regarding the same in the first paragraph of the plaintiff itself. So even as per plaintiff averments, plaintiff is not claiming possession. Moreover, PW1 admitted in the box that he entered the house as per the oral permission given by Martha. So, the

plaintiff admits that he had no possession he was residing in the house as per the permission given by Martha. So, nature of the occupation of plaintiff was like that of a license. A license terminates on the death of its grantor. Ext.A2 shows that Martha died subsequent to filing of the suit. True that it is an event that occurred after filing of the suit. But, the court has ample power to appreciate subsequent event in a case where the relief itself has become inappropriate or cannot be granted due to subsequent events. (see **Pasupuleti Venkateswarlu v. The Motor & General Traders 1975 KHC 535**). So, the court has ample power to appreciate the fact that the grantor is no more at present.

11. I have one more reason to take such a view. It is an admitted fact that Martha died as a spinster. It was submitted by counsel from both sides that D1's mother and the mother-in-law D2 have also become co-owners of the property. True that they are not a party to the suit. Even then it appears to me that it is inappropriate to grant the relief sought in the suit because no right claimed in the plaint is available at present. Hence, these issues are found against the plaintiff.

In the result,

Suit dismissed, No costs.

(Dictated to Confidential Assistant, transcribed by her, corrected and pronounced by me in the open court on this the 22nd day of January, 2026)

Sd/-
YAHYA. T . K.,
MUNSIFF

APPENDIX

Plaintiff's Witness:

PW1 : 13.01.2026 Shaju. K. M.

Plaintiff's Exhibits:

A1 : 22.10.1999 Certified copy of Theer Deed bearing no. 3371/1999 of SRO, Mundur.

A2 : 24.08.2024 Death Certificate of Smt. Martha.

Defendant's Exhibits:

B1 : 16.02.2018 Copy of petition submitted before -
Deputy Superintendent of Police, Kunnamkulam.

Court Exhibits:

C1 : 20.06.2022 Commission Report in I.A. 02/.2022.

Id/-
MUNSIFF