

IN THE COURT OF MUNSIF, ERNAKULAM

**Present :- Smt. Needi.K.Dinamany , II Additional Munsiff
Tuesday, the 9th day of September, 2025/ 18th Bhadra, 1947**

O.S. No. 1034/2017

Plaintiff:-

1. Iype Sebastin, aged 67 years, S/o Late Iype, Kolarikkal House, South Chittoor P O, Cheranellor Village, Kanayannur Taluk, Ernakulam District. (Died)

Additional Plaintiffs:-

2. Subin K S, aged 46 years, S/o Late Iype Sebastian, Kolarikkal House, South Chittoor P O, Cheranellor Village, Kanayannur Taluk, Ernakulam District.
3. Alice Sebastian, aged 68 years, W/o Late Iype Sebastian, Kolarikkal House, South Chittoor P O, Cheranellor Village, Kanayannur Taluk, Ernakulam District.
4. Sunitha K S, aged about 49 years, D/o Iype Sebastian, residing at Panakkathara House, Indiragandi Road, Edakochi Post, Kochi- 682010.
5. Swapna K S, aged about 44 years, W/o Biju, residing at Kainikattu House, Mundamveli Post, Kochi- 682007.

Additional Plaintiff 2 to Plaintiff 5 impleaded as per the order in IA 4/23 dated 12.07.24

By Adv. Abdul Shukoor M A

Defendants:-

1. Antony, S/o Late Mettakkattu Michel, Mettakkattu House, SRM Road, Kochi – 18. (Died)
2. Sebastian @ Glancy, aged 71 years, S/o Late Mettakkattu Michel, Kolarikkal House, South Chittoor P O, Cheranellor Village, Kanayannur Taluk.
3. Stanly, aged 60 years, S/o Late Mettakkattu Michel, Mettakkattu House, SRM Road, Kochi – 18.

4. Elizabeth, aged 85 years, D/o Late Mettakkattu Michel, Mettakkattu House, SRM Road, Kochi – 18.
5. Gladys Joseph, aged 72 years, D/o Late Mettakkattu Michel, Mettakkattu House, SRM Road, Kochi – 18.
6. Leena, aged 62 years, D/o Late Mettakkattu Michel, Mettakkattu House, SRM Road, Kochi -18.

Additional Defendants :-

7. Preethe Jayan, aged 37 years, W/o Jayan, Kochuthypparambil House, St. Jacob Road, (M A Mathew Road Near Anganwadi Lane) Perumpadappu, Palluruthy P O, Palluruthy Village, Kochi Taluk, Pin – 682006.
8. Praveen Antony, aged 40 years, S/o Late Antony, Mettakkattu House, SRM Road, Kochi – 18.

Additional Defendant 7 and Defendant 8 impleaded as per order in IA 8356/17 dated 12.06.19

Exparte

Suit filed Under Section 26 Order VII Rule I of The Code of Civil Procedure.

This suit have been come up for hearing before me on 20.08.2025 in the presence of the said counsel and this Court on this day delivered the following :-

J U D G M E N T

Suit for declaration and injunction.

2. **Plaint averments in brief are as follows:-** The plaint schedule property, measuring 3.81 Ares (9.41 cents) in old Survey No. 579/3, now Re-Survey No. 244/5, Block No. 4, Cheranelloor Village, originally belonged to Ouseph, son of Vareeth of Kolarikkal House, the plaintiff's grandfather. He had obtained Kanam rights from

Swaroopam Estate and Chittoor Devaswom under judgment and decree in O.S. 1045/1103 M.E. The property formed part of the Kolarikkal tharavadu, where Ouseph and his family resided from 1902 onwards. After Ouseph's death, his legal heirs, including the plaintiff, continued in possession. Swaroopam Estate later obtained a decree in O.S. 1045/1103 M.E. before the Munsiff Court, Ernakulam, which was executed through Anchi Kaimal District Court. In court auction held on 12th Thulam 1120 M.E. and confirmed on 27th Kanni 1121 M.E., the property was purchased in the name of Michel of Mettekkattu House, Ernakulam, and "Sannathu" was issued in 1123 M.E. Though Michel thus became ostensible owner, the plaintiff asserts that the purchase was actually on behalf of Ouseph's heirs, since Michel was a close relative and family friend. Michel never took possession of the plaint schedule property, while the plaintiff and his predecessors continued residence and enjoyment. Michel died on 29/11/1971, leaving the defendants as his only legal heirs. Nevertheless, the plaintiff remained in open, continuous, and hostile possession of the plaint schedule property from 1964 onwards, to the knowledge of Michel and the defendants, without interruption. Such possession, being adverse to their title, has ripened into ownership by limitation. In these circumstances, a cloud has arisen over the plaintiff's title, owing to the defendants' claim as heirs of Michel. The plaintiff therefore seeks a declaration of his ownership and a decree of permanent injunction restraining the defendants from interfering with his peaceful possession and

enjoyment of the plaint schedule property. Hence the suit.

3. Summons was served on defendants. They failed to appear and were set exparte. From the side of plaintiff PW1 and PW2 were examined and Exts.A1 to A11 were marked.

4. Heard the learned counsel for plaintiffs.

5. Plaint averments are reiterated in the proof affidavit of PW1 and PW2. Water charge bill for the month of 22.02.1991 and 04.12.1992 is marked as Ext.A1. Ext.A2 to A5 are demand and disconnection notice dated 26.09.2013, 24.11.2014, 20.01.2015, 24.05.2018 respectively. Ext.A6 is the building tax receipt dated 02.11.2007. Exts. A7 and A8 are property tax dated 23.02.2016 and 02.06.2017 respectively. Ext.A9 is the building tax receipt dated 17.12.2023. Certified copy of sale deed No.63/17 is marked as Ext.A10. Document No.4044/2012 is marked as Ext.A11.

6. Plaintiff contends that Ouseph and his family resided in the tharavadu house situated in the property from 1902 onwards. Following his death, Swaroopam Estate obtained a decree in O.S. 1045/1103 M.E., leading to a court sale in 1120 M.E., where Michel of Mettekkattu House became ostensible purchaser. The plaintiff contends Michel, a family relative, purchased the property on behalf of Ouseph's heirs and never took possession. The plaintiff and his predecessors continued in exclusive possession and enjoyment. Michel died in 1971, leaving defendants as heirs, but plaintiff's open, hostile, and uninterrupted possession since 1964 has ripened into

ownership by adverse possession. PW2, who is neighbour of plaintiffs have deposed that the plaintiffs and their family is residing in plaint schedule property from time immemorial and has been remitting tax. Further defendants who are legal heirs of Michael, remained exparte and did not adduce any contrary evidence against claim of adverse possession. Also, there is no evidence to suggest that defendants or their father Michael was in ownership or possession of property at any time before. Therefore apprehension of plaintiffs are well founded as they are in possession of plaint schedule property. On perusal of the proof affidavit and documents produced, which remain unchallenged, I am satisfied that plaintiffs have established his case. The unchallenged oral and documentary evidence is sufficient to grant a decree in favour of plaintiffs. Since the plaintiffs have adduced evidence only on his behalf and suit is not in representative character, relief of declaration is granted only to plaintiffs.

In the result, suit is decreed on the following terms.

- 1) It is hereby declared that the plaintiffs have acquired the title over the plaint schedule property by adverse possession and limitation
- 2) Defendants are restrained by a permanent prohibitory injunction from obstructing with peaceful possession and enjoyment of plaint schedule properties.

- 3) Defendants are directed to pay costs of the suit to plaintiffs.

Dictated to the Confidential Assistant typed by her, corrected and pronounced by me in the open court of this the 9th day of September 2025.

Needi.K.Dinamany
IInd Additional Munsiff

Appendix:-

Plaintiff's Exhibits:-

A1	Bill dated 22.02.1991, 04.12.1992 issued form Kerala Water Authority.
A2	26.09.2013 Water disconnection notice issued by Kerala Water Authority
A3	24.11.2014 Water disconnection notice
A4	20.01.2015 Demand Water disconnection notice
A5	24.05.2018 Water bill
A6	02.11.2007 Building tax receipt issued from Cheranalloor Grama Panchayath
A7	02.06.2017 Building tax receipt
A8	23.02.2016 Building tax receipt
A9	17.12.2023 Building tax receipt
A10	Certified copy of Sale deed No: 63/17 of SRO, Ernakulam
A11	Certified copy of Sale deed No: 4044/12 of SRO, Ernakulam

Defendant's Exhibits:- Nil

Court Exhibits:- Nil

Witness Exhibits:- Nil

Plaintiff's Witness:-

PW1 21.07.2025

Subin K S

PW2 28.07.2025

Mary Dolly

Defendant's Witness:-

Nil

Court Witness:-

Nil

IInd Additional Munsiff

J U D G M E N T
O.S. No. 1034/2017
Dated 09.09.2025