

IN THE COURT OF THE SUB JUDGE, CHERTHALA
Present:- Ms.Lakshmy.S., Sub Judge
Wednesday 4th day of December 2024/ 13th Agrahayana 1946

IA 4/2023 in OS. 8/2023
(Filed on 20.02.2023)

Petitioner :-

1. Naveen Jayasankar, S/o. Jayasankar, aged 26years
26/408 A, Sudarsanam, Puthiyakavu,
Vaikom Main Road, Thripunithura, Ernakulam- 682 301.
2. Parvathi Ashok, W/o. Naveen Jayasankar,
aged 51 years, Of-do-do--

By Adv. T. Jayakrishnan

Respondents:-

1. Alpa Jayasankar, W/o. Late. M. Jayasankar,
aged 45 years, Jayakarhi, Puliyanoor Madom,
C.M.C- XI, Cherthala.
2. Rani, Paint Home, Nandini Shopping Complex, Cherthala.
3. Ajithkumar, Color Vision, Nandini Shopping Complex, Cherthala.
4. Subi Sagarika, Nandini Shopping Complex, Cherthala.
5. Geetha Rani, Pupa, Nandini Shopping Complex, Cherthala.
6. Devan, Pupa, Nandini Shopping Complex, Cherthala.
7. Anjali, Pupa, Nandini Shopping Complex, Cherthala.
8. Omanakuttan, Bangalore sports, Nandini Shopping Complex,
Cherthala.
9. M/s. Adv. M.P. Gopinathan Memorial Stadium,
Nandini Shopping Complex, Cherthala.
10. V.S.Lal, V.S. Lal Sanitary, North of Iron Bridge, Cherthala.

11. Raveendran, NIT, North of Iron Bridge, Cherthala.
12. Paul Issac, Princy Tavel, North of Iron Bridge, Cherthala.
13. Subramonian, Alfabet, North of Iron Bridge, Cherthala.
14. Tomy, Kings Airways, North of Iron Bridge, Cherthala.
15. M/s Maliyekkal Agencies, North of Iron Bridge, Cherthala.
16. Johnny, Papermart, North of Iron Bridge, Cherthala.
17. M.M. Nias, Advocate, North of Iron Bridge, Cherthala.
18. CITU Bhavan North of Iron Bridge, Cherthala.
19. Sindu. S. Nair, IC, G.J Properties, First Floor, Cherthala.
20. Benni.S, Flat on 9th Floor of G.J. Properties, Cherthala.
21. Dhanush Krishna.S.Kammath, 24/180 F, Cherthala.
22. Dinesh Sreenivasan, Authorized Signatory,
Nandini Tourist Home, Kizakke Nada, Guruvayoor.
23. Shakeer, Manager, Nandini Tourist Home, Of-do-do--
- Addl. 24. Mr. Sasi, Proprietor, Nandini Restaurant, Of-do-do--
- Addl. 25. Moni, proprietor, Of-do-do--
- Addl. 26. Adv. Ravichandran, Of-do-do--
- Addl. 27. Suresh, Of-do-do--
- Addl. 28. Vijesh Nikarthil, 11/581, Badminton Court, Jayakrithi, Cherthala-10.
- Addl. 29. Ullas Kumar, Mattathi, A 2 Z Driving School, 11/1185,
C.M.C- XI, Cherthala.

Addl. 30. Dhanush, Tip Top Iron Centre, 11/1185, C.M.C- XI, Cherthala.

Addl. 31. Moni, Tip Top Iron Centre, 11/1185, Of-do-do--

Addl. 32. Gopalakrishnan, Mattathil, East of K.S.R.T.C Stand, C.M.C- X, Cherthala (Conducting Tattu kada from 5 -10 opposite Himalaya Bakery near entrance to to Rajeev Gandhi, Auditorium, Cherthala)

R1 By Adv. Premkumar.K

R2 to R16 & R 28 Adv. Tom Issac

R13 Adv. P. Rajesh,

R14 Adv. P.S. Jyothiskumar,

R14, R24 , 26 & 27 are exparte

This Petition having been finally heard on 28.11.2024 and the court on 04.12.2024 passed the following:-

ORDER

This petition is filed by the plaintiffs to direct the respondents No.2 to 21 to deposit the rent regarding the rooms occupied by them before the Court and to direct the respondents 22 and 23 to deposit the income from Nandini Tourist Home, Guruvayoor in the account in which the 22nd respondent is the authorized signatory.

2. The contentions of the petitioners are as follows:

The suit is one for partition of the properties left behind by Late M.Jayasankar who is the father of 1st plaintiff. The 1st plaintiff is the only son of Late Jayasankar. He is autistic and is under the care and protection of 2nd

plaintiff, mother. Late Jayasankar married the defendant in the year 2015. The 1st plaintiff is entitled to get $\frac{1}{2}$ rights of Late Jayasankar. After the death of Jayasankar, his near relatives tried for an amicable settlement to share the properties of Jayasankar who owned buildings in Cherthala, Guruvayoor and Dubai. But the same was not fruitful. The rent from tenants were credited to the account of Jayasankar. Immediately after his demise, the defendant asked the tenants to deposit rent to one of her suggested accounts. The differently abled 1st plaintiff is not able to fight out with the defendant. He needs the help of Court and his mother to sustain in this world. Plaintiff properties are in the legal possession and enjoyment of 1st plaintiff. If the tenants keep on paying rent directly to the defendant or if to the account as suggested by her, it would go unaccounted and would amount to denial of income to the 1st plaintiff. Till a transparent and straightforward arrangement is made, the amounts should be either deposited before court or else there would be misappropriation of amounts. Hence the petition.

3. The 1st counter petitioner filed objections as follows: The suit for partition is filed claiming that the 1st plaintiff is entitled to get $\frac{1}{2}$ share of the properties owned by deceased M.Jayasankar died on 11.01.2023. The defendant is the legally wedded wife of Late M.Jayasankar and she is entitled to get $\frac{1}{2}$ share in the assets of deceased M.Jayasankar. On receipt of notice from this Court, the tenants have not cared to deposit the rent due from the month of

February 2023 in Court. So, an early decision in the matter is to be accorded. The 2nd plaintiff is an unnecessary party to the suit and she is not competent to represent 1st plaintiff and it is not necessary also. The 1st plaintiff and defendant jointly gave letters to the banks not to operate the accounts. But 2nd plaintiff meddled the same and came to the residence of the defendant, abused her and threatened that she would file case against the defendant. Late M.Jayasankar had properties and buildings in Cherthala. Property in Guruvayoor is a private limited company namely Nandini Tourist Home Pvt.Ltd., wherein late M.Jayasankar held lion share. As the widow and one of the legal heirs of Late M.Jayasankar, the defendant is entitled to receive rent derived from the buildings owned by late M.Jayasankar, subject to accounting with 1st plaintiff. Item No.17 and 18 in the plaint schedule are absolutely belong to the defendants as per sale deeds No.2019/2019 and 760/2022 of SRO, Cherthala and it is not partible as claimed. Defendant is entitled to the rent whatsoever derived thereof from item number 17 and 18 in the plaint schedule. Moreover, the defendant was compelled to pay the building tax of the leased premises to the tune of Rs.1,00,030/- as the license of the tenants would not be renewed by Municipality. In addition to that recurring expenses like electricity charges of the petrol pump building, shuttle court, office shed, maintenance of shuttle court, wages for security of shuttle court, wages of sweepers and other staff etc

and other unforeseen expenses are to be met by the income derived from the estate of late M.Jayasankar.

4. The 22nd respondent filed objection contenting are as follows:

The Nandini Tourist Home is a company registered under the Companies Act. The 22nd respondent is only a Managing Director and official signatory of the Nandini Tourist Home, Guruvayoor. The company is functioning under the provisions of Companies Act. All the transactions of the company are transparent. The company is keeping regular books of account of the company. The respondent cannot do anything against the Articles of Association of the company. All the income derived from the Nandini Tourist Home are deposited in the Companies Bank Account and nothing has been done to wriggle out from any liability.

5. The respondents No.2 to 21 and 23 to 32 did not appear and file objections.

6. Heard and perused the records.

7. The following points arise for consideration :

1. Are the petitioners entitled to get an order directing the respondents No.2 to 32 to deposit rent and income before the Court, till the disposal of the suit?
2. Order as to costs?

8. **Point Nos.1 and 2:**

The petitioners are the plaintiffs in the suit for partition and separate possession. The plaint schedule properties which are 39 items, belonged to Sri.M.Jayasankar who died intestate. The first plaintiff is his son and defendant is his widow. The relationship of the parties to the suit with Late Jayasankar is not seriously disputed. Both the parties have raised the same contention that first plaintiff and defendant are entitled to get ½ share each with respect to the property of Late Jayasankar. However, the pleadings would show that a mutually acceptable division of properties could not be achieved despite negotiations.

9. The plaint schedule properties include numerous shop rooms and buildings rented out to several persons and most of those buildings are in Cherthala. Eventhough notice was served to the tenants, they did not appear and offer any suggestion to make payments of monthly rent without affecting their right to continue the tenancy. However, both the plaintiffs and defendants have contended that the tenants are not paying rent properly. The legal heirs have right over the income derived from the buildings and tenants cannot be permitted to take advantage of the pendency of litigation between the heirs of Late Jayasankar.

10. The right of the parties over the plaint schedule properties requires adjudication. Inorder to maintain transparency and accountability, the income

from the buildings in plaint schedule properties should be deposited into a specific account. At the same time, this Court has no authority in this proceeding, to direct the 22nd respondent to deal with the income from Nandini Tourist Home in a specific manner as it is a Private Limited Company registered under the Companies Act. As no suggestion was offered by any of the parties to this interim application to maintain a separate account to collect rent, this Court is of the view that direction can be given to the tenants to deposit the monthly rent before this Court till the disposal of the suit. The point is found partly in favour of the petitioners.

11. **Point No.3** : In view of findings on point no.1, the IA is to allowed in part, without costs.

In the result, IA is allowed in part, without costs and the respondents No.2 to 21 and 23 to 32 are hereby directed to make the deposit of the monthly rent including arrears before this Court, till the disposal of the suit.

Dictated to the Confidential Assistant, typed by her directly to the computer, corrected and pronounced by me in open court on this the 04th day of December, 2024.

Sd/-
LAKSHMY.S
SUB JUDGE

Appendix:- Nil

Id/-
SUB JUDGE