

**IN THE COURT OF THE ADDL. DISTRICT JUDGE-I, MAVELIKARA**

**Present:- Smt.V.G. Sreedevi, Addl. District Judge-I**

**Wednesday, the 01<sup>st</sup> day of April, 2026/11<sup>th</sup>, Chaithram 1948**

**A.S. No.23/2024**

(Filed on : 04.04.2024)

(O.S.No.518/2014 on the file of the Munsiff's Court, Mavelikara)

**Appellant :** Sophy Saju, aged 46, D/o Rachel,  
Mullasseril, Kallimel, Vettiayar,  
Mavelikara.

*(By Adv. P.Anil Mullakkal)*

**Respondents** 1. State of Kerala represented by the  
District Collector, Alappuzha  
2. Deputy Tahsildar,  
Revenue Recovery Taluk Office, Mavelikara.  
3. Village Officer, Village Office, Vettiayar  
*(R1, 2 and 3 are Addl.Govt.Pleader, Mavelikara)*

This appeal having been finally heard on 27.03.2026 and the court on the 01.04.2026 delivered the following:-

**J U D G M E N T**

This appeal is preferred against the decree and judgment passed by the learned Munsiff, Mavelikara in O.S. 518/2014. By the said judgment, the suit was dismissed.

2. Aggrieved plaintiff is the appellant.

3. Averments in the plaint, in brief, are as follows:- The plaint A schedule property absolutely belonged to the deceased mother of the plaintiff by virtue of sale deed dated 19.04.1965 bearing No.1209 of

SRO, Mavelikara. After her demise, the A schedule and all others in it are in the absolute possession and enjoyment of the plaintiff. It has been set apart as the family share of the plaintiff. The plaintiff has renovated the A schedule property residential building and all other movables. Everything in the residential building were purchased by the plaintiff. She has not taken any loan from any of the Government undertakings and is not a defaulter.

4. The defendants have no manner of right to enter into the A schedule property for the purpose of executing revenue recovery proceedings. The mother of the plaintiff had also not taken any loan from any where.

5. On 31.10.2014, the officials attached to the office of the third defendant came to the residence of the plaintiff and had taken away a settee and its four chairs, diwan cot, dining table and its four chairs of teak wood, two double cot of mahogany, cushion chair and television of BPL company from the house of the plaintiff and those properties are scheduled as B. The activities done by the defendants are in gross violation of the Revenue Recovery Act.

6. The plaintiff when made enquiry and filed a petition, the second defendant intimidated that the A schedule property will be attached and auctioned on the basis of the notice issued to the brother of the plaintiff. The brother has no right over the A schedule property. It is the absolute property of the plaintiff. The defendants ought to have proceeded against the properties of the brother. An appeal was

filed before the District Collector on 07.11.2014 stating true facts, but no orders passed. The plaintiff exhausted the alternative remedy available under Sec.72 of the Revenue Recovery Act.

7. Since the plaintiff is seeking an emergent remedy, a petition was filed for leave of the Court under Section 80(2) of CPC to file suit without issuing notice.

8. The defendants 1 to 3 together filed written statement with the following contentions:- The plaintiff is the daughter of one K.V. Sebastian who is a sales tax defaulter under the Revenue Recovery Act. The plaintiff's brother Stanly Sebastian is also a defaulter and various notices under Revenue Recovery Act have been issued to the father as well as brother. Now, they are jointly liable to pay ₹15,70,048/- towards Government with interest. Along with several other liabilities due from Stanly Sebastian and his wife Rani Sebastian, the total of such amount would come to ₹3,01,77,395/-.

9. The plaint A schedule property alleged to be the absolute property of the mother of the plaintiff is false. It belonged to Mr. Sebastian, the father of the plaintiff and his wife jointly. After her death, her property devolved upon K.V. Sebastian and her children including the plaintiff. The plaintiff has given in marriage 20 years before and since then, she is residing along with her husband at Konni in Pathanamthitta District.

10. The plaintiff is not a resident of Alappuzha District. The address shown is not correct. In that address, the uncle of the plaintiff

is residing. The plaint A schedule property absolutely belonged to the father of the plaintiff wherein the plaintiff's brother Stanly Sebastian and his family are residing. The name of the house is 'Kunnumpurathu'. The A schedule was not set apart as the share of the plaintiff.

11. The building in the plaint A schedule was renovated by the father and all the movables are belonged to him and his son Stanly Sebastian. The movables in the house were purchased by the father and thereafter the son. The plaintiff has not filed any proper objection or appeal before the authorities. If she has any right over the property, she could have approach the authorities. Without doing so, she has no right to file the suit. She is legally barred by filing the suit. What has been done by the defendants are in good faith in the official capacity.

12. The building situated in survey No.31/5 in block No.6 now stood in the name of K.V. Sebastian and his wife. The right of K.V. Sebastian and Stanly Sebastian was attached as per Section 36 of the Revenue Recovery Act on 19.07.2013 and notices were properly served on them. Steps were taken on the basis of the direction given by the Hon'ble High Court in a Writ Appeal. The plaintiff has not availed alternative remedy under S.32 of the Revenue Recovery Act. The suit is filed by the plaintiff in connivance with the father and brother for the purpose of shielding her sibling and father. The plaintiff has no right over the movables attached. These defendants never threatened the

plaintiff. The suit is only to be dismissed.

13. Along with the written statement, the schedule of property that was attached by the officials has been given.

14. On the basis of the above pleadings, the learned Sub Judge has framed necessary issues, and thereafter, evidence was taken, thereby, on the side of the plaintiff, PW1 was examined and Exts.A1 to A8 were marked. No evidence was adduced from the side of the defendants. After hearing both sides and considering the evidence, the learned Munsiff dismissed the suit.

15. Aggrieved by the said judgment, the plaintiff has come up with this appeal, raising various grounds.

16. Heard both sides.

17. The points that arise for consideration are:-

***1. Is the suit against recovery proceedings under the Revenue Recovery Act maintainable?***

***2. Is the plaintiff entitled for the prohibitory injunction, as prayed for?***

***3. Reliefs and costs.***

18. **Point No.1** :- The parties and events are referred to as they are available before the trial court. The suit is for permanent prohibitory injunction restraining the revenue recovery proceedings for recovering the dues committed in sales tax by the father and brother of the plaintiff. According to the plaintiff, the plaint A schedule property absolutely belongs to her and the defaulters ie., the father and brother have no right over the property. Even though she claimed absolute right over the plaint A schedule property, she could not produce any

documents to substantiate that.

19. Apart from that, there is no case of allegation of fraud against the revenue officials. In cases where fraud is not alleged, suit challenging revenue recovery proceedings may not be maintainable under Sec.72 of the Kerala Revenue Recovery Act, as per the dictum laid down in **Abdul Rahiman v. Government of Kerala, 2023 Supreme (Ker.) 568**. In this suit, there is no such allegation of fraud. So, prima facie, this suit is not maintainable. Hence, this point is found against the appellant/plaintiff.

20. **Point No.2:-** The suit is filed by the plaintiff for permanent prohibitory injunction against the defendants who are the Deputy Tahsildar (Revenue Recovery), Village Officer and the State represented by the District Collector. The grievance of the plaintiff is that the movables in her house were taken away after informing that there are dues to the Government under the Revenue Recovery Act by her father as well as brother. She would say that the plaint A schedule property from which these articles were taken absolutely belonged to her mother and after the mother's death, it devolved upon her and over which, the father and brother have no right.

21. The defendants would contend that the entire property absolutely belonged to the father and mother of the plaintiff and after the death of mother, it devolved upon the father as well as three children, including the plaintiff. There is nothing to show that the plaint A schedule property was set apart in the share of the plaintiff

who was examined as PW1. Even though she is claiming that she is residing in the plaint A schedule property, according to the defendants, she is residing at her husband's house at Konni in Pathanamthitta District.

22. In fact, the documents produced in this case are sale deed of the year 1965 and the remaining documents are applications put in by PW1 to the authorities as well as the undertaking given by the Additional Government Pleader, Mavelikara. Ext.A1 is the sale deed in favour of the parents of PW1 and there is no document to show that the property was partitioned after the death of the mother and that has been allotted in the share of the PW1.

23. PW1 would say that her father remarried after the death of mother and is residing separately. The brother as well as father are not residing in the plaint A schedule property and it has been separately allotted to her. The learned Additional Government Pleader would submit that in order to partition the property, the parties have approached the Court by filing O.S.29/2024. That fact is not disputed. So, it is apparently clear that this is not the absolute property of PW1 and she is not residing therein whereas the property absolutely belongs to the legal heirs of mother and all of them have equal right.

24. The outstanding liability of the father, brother and his wife exceeds ₹ 3 Crore. By filing the suit in the year 2014 and at its snail pace, the case prolonged and at last the judgment was delivered only on 09.01.2024 ie., after 10 years, thereby, the suit was dismissed

finding that there is no bonafides on the side of the plaintiff/PW1 and the material facts are suppressed. That appears to be a correct conclusion reached by the learned Munsiff because PW1 could not show any kind of documentary evidence to the fact that she is the absolute owner of the plaint A schedule property.

25. In order to protect and also to prolong the recovery proceedings against her brother and father, such a suit was filed seeking an equitable remedy without any bonafides. So, I am of the view that the conclusion reached by the learned Munsiff appears to be correct, and hence, this point is also found against the appellant/plaintiff.

26. **Point No.4:**

**In the result,**

The appeal is dismissed with costs, thereby, the judgment and decree of the trial Court are confirmed.

*(Dictated to the Confidential Assistant transcribed and typed by her, corrected by me and pronounced in open court on this the 1<sup>st</sup> day of April, 2026)*

**Sd/-  
V.G.Sreedevi  
Additional District Judge-I**

**Appendix: Nil**

**Id/-  
Additional District Judge-I**