

**IN THE COURT OF THE MUNSIFF, HARIPAD.
Present: Smt. Maneesha K Bhadran., Munsiff
Saturday, 21st June, 2025/30th Jyeshtam 1947**

OS. No.153/2023

Filed on 11.04.2023

Plaintiff:

Dileep Kumar, aged 56 years
S/o Gopalan, Suprabhatham Veettil,
Chingoli Muri, Chingoli Village, from
Mangalappalli Veedu, Mahadevikadu Muri,
Karthikappally Village
(**By Adv. M. Ibrahimkutty**)

Defendants:

1. Jamaludeen, aged 62 years,
S/o Seythumhammad Kunju,
Kanakka Pilla Veettil, Valanja Vazhi, Vandanam. P.O,
Ambalapuzha North Village from Valiya
Chelappurathu Veettil, Puthukundam Muri,
Karthikappally Village.
2. Abdul Gafoor, aged 68 years,
S/o Saithu Muhammad Kunju, Karipoo Vettill,
Kooduthinkaltheekkathil, Panoor Muri,
Thrikkunnappuzha Village, from
Valiya Thelapurathu Veettil, Puthukundam Muri,
Karthikappally Village.
(**Exparte**)

This Suit having been finally heard on 03.06.2025 and the court on 21.06.2025 delivered the following:-

J U D G M E N T

**Suit for declaration of title, recovery of possession and
partition.**

2. Plaintiff averments in brief are as follows:- Plaintiff schedule

property originally belonged to Syed Muhammed Kunju, the father of defendants. First and second defendants obtained $2/5^{\text{th}}$ and $3/5^{\text{th}}$ right respectively in plaint schedule property as per the deeds executed by their father. OS.199/2006 was filed by plaintiff for realization of Rs.50,000/- borrowed from him by first defendant. The above suit was decreed in favour of plaintiff on 30.11.2006. EP 69/2007 was filed for executing the decree and the $2/5^{\text{th}}$ share of first defendant over plaint schedule property was purchased by plaintiff as per court sale in the execution proceedings on 24.10.2008. The sale was confirmed on 01.01.2009 and plaintiff obtained sale certificate with respect to the $2/5^{\text{th}}$ share over plaint schedule property. Plaintiff was unable to secure possession over plaint schedule property in the execution proceedings. First defendant has no right over the share of plaintiff in plaint schedule property. Plaintiff and second defendant are the co-owners of the plaint schedule property. Defendants are in possession of plaint schedule property. Though plaintiff demanded first defendant to surrender possession of plaint schedule property, he was not amenable for the same. Hence the above suit for declaration of plaintiff's title over plaint schedule property, partition and recovery of possession.

3. Though defendants entered appearance, they failed to file

written statement and were set exparte.

4. Plaintiff was examined as PW1 and Ext.A1 was marked.
5. Heard the learned counsel for the plaintiff.
6. Plaint averments are reiterated in the proof affidavit of PW1.

Exts.A1 is the original of sale certificate dated 31.03.2009 in EP 69/2007 in OS.199/2006 of Munsiff Court, Haripad. A perusal of Ext.A1 would show that plaintiff obtained 2/5th right over plaint schedule property. Ext.A1 would establish that plaintiff has title over plaint schedule property. Plaintiff is entitled to secure possession over plaint schedule property on the strength of his title. Second defendant is also a co-owner of plaint schedule property. On perusing plaint and document produced, I am satisfied that the plaint claim stands proved through the unchallenged evidence on record. Therefore, the plaintiff is rightly entitled to get a decree as prayed for.

In the result, the suit is decreed and a preliminary decree is passed as follows:-

- (1) It is hereby declared that plaintiff has title over 2/5th share over the plaint schedule property.
- (2) First defendant is directed to surrender vacant possession of plaint schedule property within two months from the date of decree, failing which plaintiff can secure the same through the process of court.
- (3) Plaint schedule property is ordered to be partitioned by

metes and bounds into 5 equal shares.

- (4) Plaintiff is entitled for 2/5th share over plaint schedule property.
- (5) Second defendant is entitled for 3/5th share over the plaint schedule property. Allotment of separate share to second defendant shall be only upon the payment of requisite court fee.
- (6) Plaintiff is entitled to realize costs of the suit from first defendant.

(Dictated to the Confidential Assistant, corrected and pronounced by me in open court, on this 21st day of June 2025)

Sd/-

Maneesha K Bhadran
Munsiff

APPENDIX:

Witness Examined for the Plaintiff

PW1 14.02.2025 Dileep Kumar. G

Exhibits for the Plaintiff

A1 31.03.2009 Original Sale certificate in EP 69/07
in OS. 199/06 Munsiff Court ,
Haripad.

Id/-

Munsiff