

**IN THE COURT OF THE MUNSIFF, HARIPAD.
Present: Smt. Maneesha K Bhadran, Munsiff
Monday, 30th March, 2026/9th Chaithram, 1948**

OS 280/2020

(Filed on 23.10.2020)

Plaintiff:

Deepthi, aged 42 years, W/o. Manilal,
Uppukunnayil Veedu, Erickavu Muri,
Erickavu P.O, Kumarapuram Village.

(By Adv. S. Avinash)

Defendants:

1. Sanath, aged 48 years, S/o. Kunjupillai,
Maroottil Veedu, Mahadevikad Muri,
Karthikappally Village.
2. Ullas Kumar, aged 45 years, Plangitharayil,
S/o. Prabudha paicker,
Mahadevikad Muri,
Karthikappally Village.

(D1 by Adv. P. Suresh and D2 by Adv. C. Biju)

This suit having been finally heard on 18.03.2026 and the court on 30.03.2026 passed the following:

J U D G M E N T

Suit for permanent prohibitory injunction.

2. **Plaint averments in brief are as follows:** - Plaintiff obtained plaint A schedule property as per Sale Deed No. 2220/2012 of Cheppad SRO and is in exclusive possession and enjoyment of the same lying within specific boundary demarcations. Plaintiff B schedule is the portion of thodu in the possession of plaintiff on the east of plaintiff A schedule property wherein the excess water from plaintiff A schedule property is drained during monsoon. Defendants are residing on the north of plaintiff A schedule property. Defendants colluded to reclaim plaintiff B schedule property and attempted to construct a pathway through the same and on

19.10.2020, unloaded gravel on the sides of plaint B schedule property by trespassing into plaint A schedule property. They reclaimed a portion of plaint B schedule thodu with gravel with the assistance of JCB by felling the standing trees in plaint A schedule property. On 20.10.2020, when plaintiff attempted to obstruct the same, defendants threatened her with dire consequences. Defendants have no right to trespass into plaint A schedule property, reclaim plaint B schedule property and obstructing the free flow of water through the thodu. Hence the above suit for permanent prohibitory injunction restraining defendants from trespassing into plaint A schedule property, unloading any gravel or soil therein and reclaiming plaint B schedule thodu portion or creating any new pathway through the same.

3. First defendant entered appearance and filed written statement on the following terms: Plaintiff has no right over plaint B schedule property lying as purambokku comprised in Res No. 154/5 having an extent of 6.86 Ares and width of 3.95 metres. Karthikappally Grama Panchayath, the custodian of plaint B schedule thodu has agreed to construct a road through the same by unloading gravel without obstructing the free flow of water. Plaintiff obstructed the said decision of the Karthikappally Grama Panchayath. Plaintiff has no right to obstruct defendants from reclaiming a portion of the purambokku thodu and constructing a pathway through the same without obstructing the free flow of water. The above suit is without any bonafides and is liable to be dismissed.

4. Second defendant entered appearance, but failed to file written statement and was set exparte.

5. The following issues are raised for consideration: -

- 1) Is the plaintiff entitled for permanent prohibitory injunction as prayed for?

2) Reliefs and costs?

6. Power of attorney of plaintiff was examined as PW1 and Exts.A1 to A3 and Ext.C1 series were marked. DW1 and DW2 were examined and Ext.B1 was marked from the side of first defendant.

7. Heard both sides. Perused records.

8. **Issue Nos.1 and 2 :-** The static contention of plaintiff is that she is the absolute owner in possession and enjoyment of plaint A schedule property and plaint B schedule thodu portion is in her possession and defendants are attempting to trespass into plaint A schedule property and reclaim the thodu to construct a pathway through the same. Defendants on the other hand admit that plaint B schedule property is a puramboke thodu and they are constructing a pathway by reclaiming the same with the concurrence of Karthikappally Grama Panchayath without obstructing the free flow of water. It is further contended that plaintiff has no right to obstruct the reclamation of plaint B schedule thodu.

9. PW1, the power of attorney of plaintiff adduced evidence in tune with the case of plaintiff. Ext.A1 is the power of attorney executed by plaintiff. Ext.A2 is the certified copy of Sale deed No.2220/2012 of Cheppad SRO, whereby plaintiff purchased plaint A schedule property. Ext.A3 is the tax receipt of plaint A schedule property. Defendants in their written statement have not disputed the title of plaintiff over plaint A schedule property. The evidence of PW1 and Exts.A2 and A3 would show that plaintiff obtained plaint A schedule property for valid sale consideration and is in possession and enjoyment of the same.

10. Ext.C1 commission report has identified plaint A schedule property lying contiguously with plaint B schedule thodu on its east. The existence of

recently laid metal and gravel in the southern portion of the thodu reclaiming the same is also reported. The northern portion of thodu is seen to be waterlogged with uprooted trees.

11. Evidence of PW1 during cross-examination would show that plaint B schedule property is a portion of plaint A schedule property. It is categorically denied by him that plaint B schedule property is a panchayath purambokku. Evidence of DW2, the Village Officer of Karthikappally Village would show that Ext.B1 is issued from Karthikappally Village. Ext.B1 would show that property comprised in resurvey No.154/5 having an extent of 6.80 metres with a width of 3.90 metres is puramboke property as per revenue records. DW2 further deposed the existence of a panchayath thodu adjacent to resurvey No.154/14 to 154/16 and 154/6. Evidence of DW1 would show that the property of plaintiff is on the west of puramboke.

12. Though PW1 would testify that plaint B schedule property is a portion of plaint A schedule property, I am unable to accept the same. Exts.A2 and A3 would not support the same. Evidence of PW1 would show that defendants have attempted to trespass into plaint A schedule property and fell the standing trees therein with the assistance of JCB to reclaim the thodu. Ext.C1 has identified water logging in the non-reclaimed portion of plaint B schedule property. It is already admitted by first defendant that plaint B schedule property is a panchayath thodu. The admission of first defendant and the evidence of DW2 would clearly show that plaint B schedule property is a thodu. Though first defendant would contend that Karthikapally Grama Panchayath permitted the construction of a road over the thodu by reclaiming the same, nothing is brought forth to substantiate the same. As

per S.218 of the Kerala Panchayath Raj Act, the thodu is vested absolutely with the panchayath and the same cannot be reclaimed.

13. Evidence of PW1 would show that water from plaint A schedule property is drained to the thodu during monsoon. The admission of first defendant would show that he will reclaim the thodu vested with the panchayath to create a road which will ultimately cause inundation in plaint A schedule property. Though PW1 was cross examined at length, nothing is brought forth to disbelieve him that defendants are attempting to trespass into plaint B schedule property to reclaim the thodu. Ext.C1 would show that a portion of the thodu is already reclaimed at the time of institution of the suit and the same would give credence to the case of plaintiff.

14. In light of the contentions of plaintiff and first defendant, as plaint B schedule is a panchayath thodu, the same is vested with panchayath and plaintiff cannot claim any right of possession over the same. However, the same does not obstruct her from enjoying plaint B schedule property as it is a thodu draining the excess water from plaint A schedule property. Nothing is brought forth from the side of defendants to show that the reclamation will not obstruct the free flow of water through the thodu. As plaintiff is in exclusive possession of A schedule property, she is entitled to enjoy the same without any inundation from plaint B schedule thodu. Plaintiff will be denuded from enjoying plaint A schedule property if the thodu on the east of plaint A schedule property is reclaimed obstructing the flow of water during rainy season.

15. On an overall appreciation of facts and evidence in this case, I find no reason to disbelieve the evidence of PW1 that reclamation of plaint B schedule thodu will denude plaintiff from enjoying plaint A schedule property in her

possession. The apprehension of plaintiff is well founded and she is entitled for a decree as sought for. The above issues are answered in favour of plaintiff.

In the result, the suit is decreed.

- 1) Defendants are restrained by a permanent prohibitory injunction from trespassing into plaint A schedule property, unloading any gravel or soil therein and further reclaiming plaint B schedule thodu on the east of plaint A schedule property and obstructing the free flow of water through the same.
- 2) Defendants are directed to pay costs of the suit to plaintiff.

Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, on the 30th day of March, 2026.

Sd/-
Maneesha K Bhadran
Munsiff

APPENDIX:

Witness for the Plaintiff

PW1 07.01.2026 Manilal

Witness for the Defendant

DW1 15.01.2026 Sanand

DW2 23.01.2026 Nabila. J, Village Officer, Karthikappally.

Exhibits for the Plaintiff's side

A1 05.01.2026 Power of Attorney executed by the Plaintiff.

A2 03.12.2012 Certified copy of sale deed no. 2220/2012 of Cheppad S R O.

A3 22.10.2020 Tax receipt no. KL04040705484/2020 issued
by Karthikappally Village Office.

Exhibits for the Defendant's side

B1 30.10.2026 Reply issued by Village Office Karthikappally.

Court Exhibits

C1 06.11.2020 Commission Report and Mahazar prepared by
Advocate Commissioner Smt. Akshara. B

C1(a) 06.11.2020 Rough sketch prepared by Advocate
Commissioner Smt. Akshara. B

Id/-
Munsiff