

IN THE COURT OF THE MUNSIFF, KAYAMKULAM

Present: Smt. A.Aneesa, Munsiff

Thursday, the 12th day of June ,2025/22nd Ashada, 1947

IA.3/2024 in Original Suit.5/2019

(Filed on 11.03.2024)

Petitioner/Plaintiff: Deepa, D/o.Prabhakaran,

Aradhana veettil,

Eranthode Desam,

Valamboor Village,

Perinthalmanna Taluk,

Malappuram District.

From Thandasseril veettil,

Puthiyavila muri,

Kandalloor Village.

(By Adv.M.R.Salim)

Respondents/Defendants:

1. Divya, D/o.Prabhakaran,

Thandasseril veettil,

Puthiyavila muri,

Kandalloor Village.

2. Kanakamma,

W/o.Prabhakaran,

Thandasseril veettil,

Puthiyavila muri,

Kandalloor Village.

(By Adv.P.Viswanathan)

This petition having been finally heard on 12.06.2025 and the court of the same day passed the following.

ORDER

This petition is filed for setting aside or remit back the commission report and survey plan filed in IA. 1/22.

Petitioner is the plaintiff in OS. 5/2019. As per the petition averments OS. 71/2020 and OS. 5/2019 are jointly tried and decreed and a preliminary decree is passed as follows. "Plaint A schedule item No.1 to 3 properties in OS.71/2020 and the building therein shall be divided into three equal shares by metes and bounds and out of that 1/3 share each shall be allotted to plaintiff No. 1 and 2 and defendant. Half share of plaint B schedule property shall be divided into three equal shares by metes and bounds and out of that 1/3 share each shall be allotted to plaintiff No.1 and 2 and defendant. Equity and owelty if any, shall be decided in final decree proceedings". After passing preliminary decree a commissioner and surveyor appointed in IA. 1/22 and commission report and survey plan filed before the court. According to the petitioner, the commissioner and surveyor considered plaint A schedule item No.1 and 2 properties as a compact plot and allotted shares. The building situated in the plaint schedule property is not equally divided between the parties as mentioned in the preliminary decree. The pathway shown in the plan to the share allotted to the petitioner ends in the property of third parties and it is not useful to the petitioner. Due to the above mentioned reason the

commission report and survey plan is to be remit back to commissioner and surveyor.

No objection to the petition filed by respondents.

Heard both sides. Perused the records.

As per the preliminary decree the plaint schedule properties are to be divided into three equal shares by metes and bounds. Equity and owelty is also to be fixed while allotting shares to each parties.

Here the commissioner and surveyor considered item No. 1 and 2 properties together and allotted shares. It is against the preliminary decree. Hence due to the reasons stated in the IA, the commission report and survey plan is to be remit back to commissioner for rectifying the defects mentioned in the affidavit. Thus IA allowed and commission report and survey plan remitted back to commissioner. Commissioner is directed to rectify the defects and file commission report within one month. IA allowed accordingly.

(Pronounced by me in open court on 12th day of June, 2025.)

Sd/-
ANEESA.A
MUNSIFF

APPENDIX: Nil.

Sd/-MUNSIFF

// True copy //

MUNSIFF

Typed by:

Compd.by