

IN THE COURT OF THE MUNSIFF, KAYAMKULAM

Present: Smt. Aneesa.A, Munsiff

Tuesday 24th day of March, 2026/ 3rd Chaithra 1948

Original Suit No.110/2021

(Filed on 30.03.2021)

Plaintiff:

Jayaprasad, aged 51 yrs,
S/o. Padmanabha Pillai,
Kuttitharayil,
Perungala Muri,
Kayamkulam Village.

(By Adv.S.Remanan Pillai)

Defendant:

Travancore Devaswom Board,
rep. By Its Secretary,
Head Quarters of TDB,
Kawdiar, Nandancodu,
Thiruvananthapuram.

**(By Advs. R.Raveendranath &
R.Lekha)**

This suit is having been finally heard on 24.03.2026 and the court of the same day delivered the following.

JUDGMENT

Suit for declaration and permanent prohibitory injunction.

2. The case of the plaintiff in brief is as follows:-Plaint scheduled property having an extent of 1.62 Ares formed part and parcel of 12 cents of property comprised in old survey No. 157/14. The said 12 cents of property was originally owned by one Kanakku Govindan Velayudhan, S/o. Kanakku Govindan Krishnan, Kaithavana Veedu, Perungala, Kayamkulam Village. The said 12 cents of property was lying in east-west direction in rectangular shape on the northern side of the property of Travancore Devaswom Board. Out of the 12 cents of property, the eastern portion of the 8 cents is in the possession of other three families and they are residing there-in separately. The remaining 4 cents (1.62 Ares) of property is in the possession of the plaintiff who inherited from his father Namely Padmanabha Pillai and they are in possession for more than 50 years. For purchasing the above said 4 cents of property, Padmanabha Pillai paid Rs.80/- to its original owner, the above said Kanakku Govindan Velayudhan as the sales consideration. Though the sale Deed was not executed for the transfer, the property was given to possession of Padmanabha Pillai in the month of December, 1970. Thus the title,

possession and ownership of the said 4 cents of property was transferred to Padmanabha Pillai orally. Originally, the said 4 cents of property was lying as "Nilam" (wet land) where-in cultivation was not possible. By assigning the said property orally to above said Padmanabha Pillai by its previous owner Kanakku Govindan Velayudhan, the father of the plaintiff annexed it with his property lying adjacent on its northern side and he was in possession of the plaint scheduled property till his death and there after it devolved upon the plaintiff as the legal heir. The plaintiff's predecessor developed a major portion and its being used as way to the plaintiff's house the balance land is being used as agriculture land. The above 1.62 Ares of property is lying contiguously with the other properties of plaintiff comprised in re-survey Nos: 117/45, 117/32 & 117/31 of Kayamkulam Village lying within the same boundaries. The said 1.62 Ares of property is owned and possessed by the plaintiff being inherited from his predecessor. The property owned by first defendant Devaswom Board situates on the southern side of the plaint scheduled property wherein Karimuttam Devi Temple situates. The old survey number of the property of Devaswom is comprised in 158/01. The properties in Survey No. 157/14 & 158/1 were lying separately with

definite boundary line till the resurvey. The Devaswom Board had never been any right, title and possession in the property in Resurvey no: 157/14. In the process of Resurvey, by mistake the above said 1.62 Ares of property happened to be included in the Thandaper of Devaswom and in the resurvey plan. The Plaintiff had filed a Revision petition in 2019 before the District Collector, Alappuzha to correct the errors crept in the property registers. By mere inclusion of property in the resurvey records without having title and possession, one doesn't get any right or interest in the property. Since in the resurvey records the said 1.62 Ares of property is shown in the ownership of Devaswom Board, the concerned authorities of the board unauthorisingly claiming the right over the said property. In fact Devaswom has no right over the said property. It is in the lawful possession, ownership and enjoyment of the plaintiff along with the other properties of the plaintiff. While so, the plaintiff received a notice dated 14-12-2020 issued by the Special Tahsildar attached to the office of the defendant vide No: A 521/2014 under Rule 9 of the Land conservancy Act 8 of 1958. In the above said notice, it is alleged that an extent of 1.62 Ares of property in Resurvey No.45 in Block No: 117 of Kayamkulam Village is owned by Travancore Devaswom Board and the

same is in unauthorized occupation of the plaintiff. Since the Devaswom Board is claiming right upon the plaint scheduled property without having any legal support and by issuing notice to plaintiff under the "Land Conservancy Act'. The plaintiff had issued a legal notice for the purpose of initiating a suit against the defendant for declaring the right, title and possession upon the said 1.62 Ares of property under Section 55 of the Travancore- Cochin Hindu Religious Institutions Act, 1950 was issued to the defendant and the defendant had received the notice on 19-01-2021, but so far didn't reciprocate positively. This suit is filed after the expiry of statutory period of 60 days. In the above said circumstances, the plaintiff apprehends that the plaintiff would be evicted forcefully from the plaint scheduled property by the concerned authorities. Having left with no other options, the plaintiff is constrained to file this suit for declaration of title and possession and also for prohibitory injunction restraining the defendant from taking possession of the plaint scheduled property and evicting the plaintiff from the plaint scheduled property. The defendant has no manner of right over the plaint scheduled property. The plaintiff had received reliable information on 23-03-2021 that the defendant with help of police and revenue officials are going to evict the plaintiff from the

plaint scheduled property. The plaintiff has no capacity to resist the illegal act of the defendant and if it so happens as alleged, it would cause irreparable loss and injury to them which can't be compensated by money. Hence the suit.

3. The defendant entered appearance and filed written statement contending *inter alia* as follows:- The suit is not maintainable either in law or on facts. All the averments in the plaint except which are admitted in the written statement are denied. The averments in paragraphs No.1, 2 and 3 of the plaint are false and hence denied. It is a false statement that schedule property 1.62 Ares is part of old Sy. 157/14-12 cents and that it was owned by one Velayudhan of Kaithavana Veedu, Perungala, Kayamkulam. The lie and location of the said 12 cents as stated in the plaint is also wrong. It is not correct in saying that this 1.62 Ares is comprised in old survey No. 157/14. The plaint schedule property is part and parcel of re-survey No. 117/45-73 Ares corresponding to old survey Nos. 158/1 of Kayamkulam village. This property belong to P.D. Karimuttathu Devaswom a temple belong to the defendant Travancore Devaswom Board. It is also not correct in saying that the said 12 cents was lying in east-west in rectangular shape and the

eastern portion 8 cents is in the possession of three others etc. and the balance is the plaint schedule property that is inherited from plaintiff's father. It is also false in saying that the schedule property is in their possession for more than 50 years. The plaintiff's father Padmanapha Pillai is survived by his wife and two other children apart from the plaintiff. So the statement of inheritance by the plaintiff alone of the schedule property from his father, is not a believable story even if plaintiff's version is taken into consideration. The schedule property did not belong to any other person to be transferred to plaintiff's father for any amount or for Rs. 80/- as stated. The schedule property belong to P.D Karimuttathu Devaswom and it is clear from the old BTR. It was never been in the possession of any other person to be transferred to Padmanapha Pillai in December 1970 either on payment of any amount or otherwise. The plaintiff's father did not get any title, possession and ownership orally also. No title will pass orally. The market value of the property will come to more than Rs. 1 lakhs per cent. The schedule property is *purayidom* from the very beginning and not *nilam* as stated in the plaint. The pleading in the plaint is against the revenue records. It is portion of a larger extent of 73 Ares comprised in re-survey No. 117/45 of

Kayamkulam village. The Karimuttathu Devi Temple situates in this property. It is false in saying that plaintiff's predecessor developed portion of plaint schedule property and the balance is being used as way and agricultural land etc. The northern portion of temple property is not protected by any boundary wall which helps persons like plaintiff for claiming unnecessary claim of title and possession of Devaswom property. It is also false in saying that schedule property is lying continuously with other properties of plaintiff comprised in 117/45, 117/32 and 117/31. The plaintiff is not having any title and possession of property comprised in re-survey No.117/45. This property absolutely belong to the defendant Travancore Devaswom Board. The plaint schedule property is not owned and possessed by the plaintiff as it belong to him or as inherited from his predecessor. It is not correct in saying that the plaint schedule property situates on the north of Devaswom property separately. But it is lying as a part of Devaswom property and it is not in old survey No. 157/14. The old survey of plaint schedule property is 158/1. The Karimuttathu Devaswom was having large extent of properties and those are comprised in re-survey Nos. 117/35, 117/39, 117/45, 117/102, 119/91, 136/20 and 125/138 etc. Out of which the plaint schedule property is in re-

survey No. 117/45 and it do not belong to the plaintiff. Hence the plaintiff is not entitled to get a decree declaring the title and possession of schedule property and that it belong to him. The plaintiff is with a wrong assumption that schedule property was comprised in old survey No. 157/14. It is false in saying that old survey Nos. 157/14 and 158/1 were lying separately with definite boundary. It is not correct in saying that by mistake the schedule property was wrongly included in re-survey in the Thandapper of Devaswom. The District Collector had correctly dismissed the revision filed by the plaintiff after a full fledged enquiry and hearing. There is no error crept in the re-survey. The present suit is filed as an experimental one without having any records to prove the title of plaintiff over the schedule property. As per the decision of Hon'ble High Court Devaswom Bench, the Devaswom properties are not allowed to be in the possession of others or claimed by such persons. The claim raised by the defendant over the plaint schedule property is legal since it belong to Devaswom. The plaintiff cannot be heard to say that it is in his possession as inherited from his father and that it belong to him. The plaintiff has no possessory title or any documentary title to file a suit of this nature against the defendant. The Travancore Devaswom Board has got every

right to initiate proceedings under the Land Conservancy Act and it is supported by the decision of Devaswom Bench of High Court of Kerala. Hence the notice dated. 14-02-2020 by the special Tahsildar of defendant A 521/2014 is valid and he is competent to issue such notices to evict every unauthorized occupants. In the light of the above contentions, the averments in paragraph 4 and 5 of the plaint is answered though notice was issued by the plaintiff u/S. 55 of the TCHRI Act 1950. The defendant has got the right to take action under the Land Conservancy Act. The plaintiff has no right to get any reliefs claimed in the suit. Either the declaration prayed or the decree of permanent injunction can be granted against the defendant. The claim of the plaintiff is that schedule property was purchased by the plaintiff's father by paying an amount of Rs. 80/- as sale consideration but no document of transfer or for payment of consideration as stated. No document to prove that either himself or his predecessor had paid revenue on any time. The averments in paragraph 6 of the plaint is also denied. The plaintiff has no cause of action to file this suit. The cause of action alleged in the plaint is issuance of notice against defendant. The mere issuance of a notice contemplated u/S. 55 of TCHRI Act without any right and documents for the reliefs claimed do not give

any cause of action to file this suit. The court fee paid is not correct.

Hence the suit is to be dismissed with the costs of the defendant.

4. On the basis of the rival pleadings, the following issues were settled for consideration:-

1. Is the plaintiff entitled for a decree of declaration of right, title and possession over plaint schedule property?

2. Is the plaintiff entitled for a decree of permanent prohibitory injunction as sought for?

3. Reliefs and costs?

5. From the side of the plaintiff, PW1 was examined and Exts. A1 to A8 and A8(a) were marked. From the side of defendant, DW1 was examined and Exts. B1 and B2 were marked.

6. Heard both sides.

7. **Issue Nos. 1 and 2**:- For the sake of convenience, these issues can be considered together. In order to prove the case of the plaintiff, he himself mounted the box and examined as PW1. The plaintiff filed affidavit in lieu of examination in chief by reiterating the averments in the

plaint. Exts. A1 to A8 and A8(a) were marked. Ext.A1 is the certified copy of Gift deed No.1651/1993 dated 17.06.1993. Ext.A2 is the notice No.A.521/2014 dated 14.12.2020 of Special Tahsildar. Ext.A3 is the office copy of notice dated 15.01.2021. Ext.A4 is the postal receipt dated 15.01.2021. Ext.A5 is the acknowledgment card dated 19.01.2021. Ext.A6 is the certified copy of litho plan obtained from Central Survey Office, Thiruvananthapuram. Ext.A7 is the certified copy of Settlement Register from Thiruvananthapuram Central Archives Office. Ext.A8 and A8(a) are certified copy of re-survey plan and supplement land register. PW1 deposed that the defendants and he are currently holding the plaint schedule properties in accordance with the re-survey plan. The properties mentioned in Exhibit A1 gift deed are comprised in old survey No.57/12B. The southern boundary description in Exhibit A1 deed is mentioned as the property owned by Karimuttathu Devaswom. The plaint schedule properties are belonged in old survey No. 157/14. The plaint schedule properties have not been measured and plan has not been produced as per the old survey plan or Litho plan. He has also produced the settlement register and a litho plan to show that he has 1.62 ares of property adjacent to his property. It is stated in the plaint that his father

got possession of plaint schedule property in December 1970. His father bought the plaint schedule property for ₹ 80/-. His father had been in possession of the plaint schedule properties since then, but he could not effect mutation to his name due to lack of sufficient documents. He testified that he also in possession of the plaint schedule properties from his father, but there is no record for it. No relief has been sought in the plaint to correct the resurvey plan. He had filed a complaint with the District Collector and which was sent to the Tahsildar. He had not received any information that petition has been dismissed. The re-survey plan regarding the plaint schedule properties are not correct. The possession of plaint schedule property was obtained along with the properties mentioned in Exhibit A1 deed.

8. In order to prove the case of the defendant, the Sub-Group Officer, Koippally Karazhma Devaswom representing the Secretary, Travancore Devaswom Board examined as DW1. He filed chief affidavit reiterating the averments in the written statement. Through him, Exhibit B1, the copy of BTR with respect to the plaint schedule property obtained from Kayamkulam Village Office and Exhibit B2, the copy of re-survey plan were marked as there is no objection from the learned counsel for

plaintiff in marking photocopies of documents. He testified that the plaintiff schedule property belongs to devaswom and its southern side also belongs to the property of devaswom and it lies in length. The plaintiff schedule property is having an extent of 1.62 ares. There are three residents to the east on the same level as the plaintiff schedule property. The properties of the three-residents have been measured and found as property of devaswom. They have encroached on the property of Devaswom Board and their property is shown separately in Exhibit B2. There is a pillar and gate on the north side of the plaintiff schedule property. In Exhibit A6, it is mentioned that the property belongs in old survey No. 158/1 is the property of Bhagawati Kovil. The property belonging in old survey No.157/14 is shown to be to the north of it. The properties comprised in old survey No.158/1 and the properties comprised in old survey No. 157/14 are separated with clear boundary demarcation.

9. Here according to the plaintiff, plaintiff scheduled property having an extent of 1.62 Ares formed part and parcel of 12 cents of property comprised in old survey No. 157/14. The said 12 cents of property was originally owned by one Kanakku Govindan Velayudhan, S/o. Kanakku

Govindan Krishnan, Kaithavana Veedu, Perungala, Kayamkulam Village. The said 12 cents of property was lying in east-west direction in rectangular shape on the northern side of the property of Travancore Devaswom Board. Out of the 12 cents of property, the eastern portion of the 8 cents is in the possession of other three families and they are residing there-in separately. The remaining 4 cents (1.62 Ares) of property is in the possession of the plaintiff, who inherited from his father Namely, Padmanabha Pillai and they are in possession for more than 50 years. For purchasing the above said 4 cents of property, Padmanabha Pillai paid Rs.80/- to its original owner, the above said Kanakku Govindan Velayudhan as the sales consideration. Though the sale deed was not executed for the transfer, the property was given to possession of Padmanabha Pillai in the month of December, 1970. Thus the title, possession and ownership of the said 4 cents of property was transferred to Padmanabha Pillai orally. Originally, the said 4 cents of property was lying as "Nilam" (wet land), wherein cultivation was not possible. By assigning the said property orally to above said Padmanabha Pillai by its previous owner Kanakku Govindan Velayudhan, the father of the plaintiff annexed it with his property lying adjacent on its northern side and he

was in possession of the plaint scheduled property till his death and there after it devolved upon the plaintiff as the legal heir. The plaintiff's predecessor developed a major portion and its being used as way to the plaintiff's house, the balance land is being used as agriculture land. The above 1.62 Ares of property is lying contiguously with the other properties of plaintiff comprised in re-survey Nos: 117/45, 117/32 & 117/31 of Kayamkulam Village lying within the same boundaries. The said 1.62 Ares of property is owned and possessed by the plaintiff being inherited from his predecessor. The property owned by first defendant Devaswom Board situates on the southern side of the plaint scheduled property, wherein Karimuttam Devi Temple situates. The old survey number of the property of Devaswom is comprised in survey No.158/01. The properties in survey Nos. 157/14 & 158/1 were lying separately with definite boundary line till the resurvey. The Devaswom Board had never been any right, title and possession in the property in re-survey No: 157/14. In the process of re-survey, by mistake the above said 1.62 Ares of property happened to be included in the Thandaper of Devaswom and in the resurvey plan.

10. On the other hand, the defendant contended that the plaint schedule property did not belong to any other person to be transferred to plaintiff's father for any amount or for Rs. 80/- as stated. The schedule property belong to P.D Karimuttathu Devaswom and it is clear from the Ext B1 copy of BTR. It was never been in the possession of any other person to be transferred to Padmanapha Pillai in December 1970 either on payment of any amount or otherwise. The plaintiff's father did not get any title, possession and ownership orally also. No title will pass orally. The market value of the property will come to more than Rs. 1 lakhs per cent. The schedule property is *purayidom* from the very beginning and not *nilam* as stated in the plaint. The pleading in the plaint is against the revenue records. It is portion of a larger extent of 73 Ares comprised in re-survey No. 117/45 of Kayamkulam Village. The Karimuttathu Devi Temple situates in this property. It is false in saying that plaintiff's predecessor developed portion of plaint schedule property and the balance is being used as way and agricultural land etc. The northern portion of temple property is not protected by any boundary wall which helps persons like plaintiff for claiming unnecessary claim of title and possession of Devaswom property. It is also false in saying that plaint

schedule property is lying continuously with other properties of plaintiff comprised in re-survey Nos.117/45, 117/32 and 117/31. The plaintiff is not having any title and possession of property comprised in re-survey no. 117/45. This property absolutely belong to the defendant Travancore Devaswom Board. The plaint schedule property is not owned and possessed by the plaintiff as it belong to him or as inherited from his predecessor. It is not correct in saying that the plaint schedule property situates on the north of Devaswom property separately. But it is lying as a part of Devaswom property and it is not in old survey No. 157/14. The old survey of plaint schedule property is 158/1. The Karimuttathu Devaswom was having large extent of properties and those are comprised in re-survey Nos. 117/35, 117/39, 117/45, 117/102, 119/91, 136/20 and 125/138 etc. Out of which the plaint schedule property is in re-survey No. 117/45 and it do not belong to the plaintiff. Hence the plaintiff is not entitled to get a decree declaring the title and possession of plaint schedule property and that it belong to him. The plaintiff is with a wrong assumption that plaint schedule property was comprised in old survey No. 157/14. It is false in saying that old survey Nos. 157/14 and 158/1 were lying separately with definite boundary. It is not correct in

saying that by mistake the plaint schedule property was wrongly included in re-survey in the Thandapper of Devaswom. The District Collector had correctly dismissed the revision filed by the plaintiff after a full fledged enquiry and hearing. There is no error crept in the re-survey.

11. Here, as per the evidence of PW1, defendants and he are currently holding the plaint schedule properties in accordance with the re-survey plan. The properties mentioned in Exhibit. A1 gift deed are comprised in old survey No. 157/12B. The southern boundary description in Exhibit. A1 gift deed is mentioned as the property owned by Karimuttathu devaswom. The plaint schedule properties are belonged in old survey No. 157/14. The plaint schedule properties have not been measured and plan has not been produced as per the old survey plan or Litho plan. PW1 also testified that he also in possession of the plaint schedule properties from his father ,but there is no record for it. No relief has been sought in the plaint to correct the re-survey plan. The learned counsel for plaintiff contended that from the side of defendants, no records produced to prove the title of plaint schedule property by Devaswam Board. In **Kishore Kumar v. Vital K. Patkar** reported in **2023 KHC 6998**, the Hon'ble Apex Court held that ' in a dispute with

respect to determination of title, merely pointing out the lacuna in the defendant's title would not suffice. Having instituted the suit for declaration, burden of proof rested on the shoulders of the plaintiff to reasonably establish the probability of better title. In a suit for declaration of title, burden always lies on the plaintiff to make out and establish a clear case for granting such a declaration and weakness, if any, of the case setup by the defendants would not be a ground to grant relief to the plaintiff.' Here, the plaintiff miserably failed to prove that the plaint schedule property was originally belonged to old survey No.157/14. As per Exhibit B1, the plaint schedule property belongs to the defendant devaswam board. The properties were not measured out as per old survey plan in order to ascertain, whether the plaint schedule property comprised in old survey No. 157/14 or old Survey No. 158 /1. As earlier discussed, the plaintiff failed to discharge his burden to make out and establish a clear case for granting declaration of title and possession over plaint schedule property. As the plaintiff failed to prove the title and possession over the plaint schedule property, he is not entitled to get a decree of permanent prohibitory injunction as sought for. Thus, issue Nos.1 and 2 are found against the plaintiff.

12. **Issue No. 3**:- In view of the above discussions in issue Nos.1 and 2, the suit is liable to be dismissed. Thus, issue No.3 is also found against the plaintiff.

In the result, the suit is dismissed. No order as to costs.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court on 24th day of March, 2026)

Sd/-
ANEESA.A
MUNSIFF

APPENDIX:

Exhibits for the Plaintiff:-

- | | | | |
|-------------|------------|---|---|
| A1. | 17.06.1993 | : | Certified copy of Goft deed No. 1651/1993. |
| A2. | 14.12.2020 | : | Notice No.A.521/2014 of Special Tahsildar. |
| A3. | 15.01.2021 | : | Office copy of notice |
| A4. | 15.01.2021 | : | Postal Receipt |
| A5. | 19.01.2021 | : | Acknowledgement card. |
| A6. | | : | Certified copy of Litho plan obtained from
Central Survey office, Thiruvananthapuram. |
| A7. | | : | Certified copy of Settlement Register from
Thiruvananthapuram Central Archives office. |
| A8 & A8(a). | | : | Certied copy of Re-survey plan on Supplement
Land Register. |

Exhibits for the defendant:

- B1. : Copy of BTR with respect to the Plaintiff
Schedule Property obtained from
Kayamkulam Village office.
- B2. : Copy of Re-survey plan.

Witness for the Plaintiff:-

PW1. 24.09.2024 : Jayaprasad.P.

Witness for the defendant:

DW1.07.01.2025 : N.Sreekumar.

Court exhibits: Nil.

Sd/-
MUNSIFF

// True Copy //

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Typed by : Shafeek

Compd by: