

IN THE COURT OF THE MUNSIFF, CHENGANNUR
Present : Smt. Amala Lawrence, Munsiff,
Friday 10th day of April 2026 / 20th Chaitra 1948

OS 173/2024
(Filed on 19.08.2024)

Plaintiff:

Remani, aged 63 years,
D/o K.K.Thankamma,
Kunnuthara Vadakkethil Veettil,
Arekkara P.O, Arekkara Muri,
Mulakuzha Village, Chengannur Taluk.
**(By Adv.K.Murali Manohar,
Adv. Vishnu Manohar, Adv. Sreenu Raj.N
and Adv. Sooraj.S.Pillai)**

Defendant:

Prasoon Prakash, aged 31 years,
S/o Jayaprakash, N.M Royal Coundiyil,
Erumbanam P.O, Thrippunithura Taluk,
Ernakulam District From
Kunnuthara Vadakkethil Veettil,
Arekkara P.O, Arekkara Muri,
Mulakuzha Village, Chengannur Taluk.
(Exparte)

This Suit having been finally heard on 06.04.2026 and court on the 10.04.2026 delivered the following.

JUDGMENT

This suit is filed for declaration, fixation of boundary and mandatory injunction.

2. The averments in the plaint, in brief, are as follows:-

The plaint schedule Item No. 1 property, comprised in Re-Survey No. 432/12-2, having an extent of 80 square metres, is in absolute ownership and possession of the plaintiff by virtue of Will Deed No.

47/2008. The second item covered under the said Will Deed is in the absolute ownership and possession of the defendant, which is described as plaint schedule Item No. 2 property. The said Will Deed was executed by the mother of the plaintiff, Smt. Thankamma, in favour of the plaintiff and the defendant, who is her grandson. Smt. Thankamma passed away on 21/03/2011 without executing any subsequent document in respect of the plaint schedule properties. Hence, by virtue of the said Will Deed, the plaintiff and the defendant have absolute rights over plaint schedule Item Nos. 1 and 2 properties respectively. The plaintiff further submits that the boundary demarcation between the plaint schedule Item Nos. 1 and 2 properties was clearly existing. However, in December 2021, the defendant demolished and renovated the old residential building situated in plaint schedule Item No. 2 property. As the plaintiff was residing away from the property, these acts came to his knowledge only later. Upon visiting the property, the plaintiff came to know that the defendant had destroyed the boundary demarcation between the plaint schedule Item Nos. 1 and 2 properties and had made constructions encroaching into plaint schedule Item No. 1 property.

3. Thereafter, in August 2024, the plaintiff approached the defendant and demanded removal of the encroachment. However, the defendant failed to comply and continued to assert

unlawful possession over portions of the plaintiff schedule Item No. 1 property. The defendant has no manner of right to trespass into the plaintiff schedule Item No. 1 property, demolish the boundary demarcation, or make constructions encroaching upon the same. Hence, this suit is filed for fixation of the boundary between plaintiff schedule Item Nos. 1 and 2 properties in accordance with the survey plan and title deeds, for fixation of the northern boundary of plaintiff schedule Item No. 1 property, for declaration of the plaintiff's right over plaintiff schedule Item No. 1 property, and for removal of the constructions made by the defendant encroaching into the said property.

4. Though summons were duly served, the defendant neither appeared before the Court nor was represented. Hence, the defendant was set *ex parte*.

5. The only issue to be decided is:-

Whether the plaintiff is entitled to the reliefs sought for in the plaint.

6. To prove the case of the plaintiff, plaintiff filed proof affidavit filed in lieu of examination in chief and was examined as PW1. Exts.A1 and A2 documents were marked. The attesting witness of Ext.A1 Will deed was examined as PW2. Commission report, Mahazar and plan as per order in IA. 1/2025 were marked as Ext.C1 series.

7. Heard the learned counsel for the plaintiff.

8. **The Issue:-** To prove the case of the plaintiff, the plaintiff filed a proof affidavit in lieu of examination-in-chief and was examined as PW1. She deposed in tune with the averments contained in the plaint. Exts. A1 and A2 were marked on her side as documentary evidence. The Will deed No. 45/2008 of SRO, Chengannur was marked as Ext. A1, and the tax receipt dated 31.05.2024 issued by Mulakkuzha Village was marked as Ext. A2. One of the attesting witnesses to Ext.A1 Will deed was examined as PW2. Ext. A1 Will deed stands duly proved through the testimony of PW2. The oral evidence of PW1 and PW2, read together with Exts. A1 and A2, establishes that the plaintiff is in absolute ownership and possession of plaint schedule item No. 1 property by virtue of Ext.A1 Will deed. Further, the testimonies of PW1 and PW2, along with the documentary evidence adduced, corroborate the averments set out in the plaint. Additionally, the Commission Report, Mahazar, and Plan prepared pursuant to the order in I.A. No. 1/2025 were marked as Ext. C1 series. As per Ext. C1(a) Mahazar, it is observed that the boundary line between plaint schedule item Nos. 1 and 2 properties is clearly demarcated and shown as 'JF' in Ext. C1(b) Plan. The encroached portion of plaint schedule item No. 1 property by the defendant is identified and marked with letters 'KLMNK' in Ext. C1(b) Plan. Thus, the

averments in the plaint stand proved through the deposition of PW1, PW2, Ext.C1 (Series) and the documentary evidence produced. As the defendants have not chosen to contest the claim, the evidence remains unchallenged and unrebutted. Accordingly, the plaintiff is entitled to a decree as prayed for.

In the result, suit decreed *exparte*, as follows:-

1. The plaint schedule item No.1 property is marked with letters 'DEFJD' in Ext C1 (b) plan.
2. The plaint schedule item No.2 property is marked with letters 'JFHIJ' in Ext C2 (b) plan.
3. The encroached portion of plaint schedule item No. 1 property by the defendant is marked with the letters "KLMNK" in Ext. C2(b) Plan.
4. It is hereby declared that Ext. A1 Will Deed of SRO, Chengannur, in respect of plaint schedule item No. 1 property, is proved to be valid. It is further declared that the plaint schedule item No. 1 property is in the absolute ownership and possession of the plaintiff by virtue of Ext. A1 Will Deed.

5. The boundary line between plaintiff schedule item No.1 and 2 properties is marked as 'JF' line in Ext C1 (b) plan. The plaintiff has the right to construct compound wall between the boundary lines.
6. It is hereby directed by way of mandatory injunction that the defendant shall remove the unlawful construction in the encroached portion of the plaintiff schedule item No.1 property, as shown in Ext. C1(b) Plan within a period of two months from the date of this decree. In default thereof, the plaintiff is at liberty to remove the unlawful construction and recover the costs incurred from the defendant and his assets.
7. Ext.C1(b) plan shall form part of the decree.
8. Plaintiff is entitled to realise the costs of the suit from the defendant and his assets.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in Open Court on this the 10th day of April 2026).

Sd/-
AMALA LAWRENCE
MUNSIFF

APPENDIX:**Witness for the Plaintiff:**

PW1	26.03.2026	Remani.K
PW2	06.04.2026	Sujatha K.K

Exhibits for the Plaintiff:

A1	13.03.2008	Will Deed No.45/08/III of SRO, Chengannur
A2	31.05.2024	Tax Receipt No.KL 04050705700/2024 issued by Village Office, Mulakkuzha

Court Exhibits:

C1	Report filed by Advocate Commissioner Biju.P
C1(a)	Mahazar prepared by Advocate Commissioner Biju.P
C1(b)	Rough Sketch prepared by Advocate Commissioner Biju.P

**Id/-
MUNSIFF**