

IN THE COURT OF THE MUNSIFF, KOCHI

Present:

Sri.Aneesh Chacko. K, Principal Munsiff

Friday, the 10th day of September, 2021/19th Bhadra, 1943.

O.S. No. 70/2019

Plaintiff:-

Flory Antony @ Poulin, D/o late Joseph, aged 57 years, Puthiyedath House, Thoskara Village, Kottappuram Road, Aroor P.O.

By Adv. Rakhi Antony C.A and Lovely K.S

Defendants:-

1. Philomina, D/o late Joseph, Aarukandathil House, House No. 17/951, Mundamveli P.O, Kochi 7.
2. Karmily, D/o late Joseph, Aarukandathil House, House No. 17/951, Mundamveli P.O, Kochi-7.
3. Stella @ Celinathomas, D/o late Joseph, Puthenveedu House, Chandanikkadu P.O, Kottayam.

D1 and D2 - Exparte

D3 - By Adv. Syamon K.K

This suit having been finally heard on 02.09.2021 and the court on 10.09.2021, delivered the following:-

JUDGMENT

Suit for partition.

2. The case of plaintiff in short is as follows:- Joseph was the owner in possession of 2.54 ares along with a residential building therein

as per document number 1734/1983 of Kochi Sub Registrar Office. Plaintiff and defendants are the children of Joseph. Joseph assigned 3 cents and the balance of 3.25 cents and a residential building therein, is the plaint schedule property. The said Joseph and his wife expired. Plaintiff and defendants are joint owners of plaint schedule property. Defendants No.1 and 2 are residing in plaint schedule property. Defendants refused to effect partition. Hence the plaintiff prays for partitioning plaint schedule property by metes and bounds and for allotting $\frac{1}{4}$ share to plaintiff.

3. Defendant No.3 filed written statement admitting plaint claim. It is contended by defendant No.3 that she is entitled to $\frac{1}{4}$ share. Defendants No.1 and 2 are *exparte*.

4. Plaintiff filed proof affidavit in support of the contentions in the plaint. Ext.A1 is the certified copy of document No.1734/1983, which is the title deed in favour of Joseph. As per such document Joseph obtained 6 cents 290 square links (2 ares 54 square meter) property. As per the proof affidavit Joseph assigned 3 cents and the balance of 3.25 cents in Sy.No.334/1 is scheduled as plaint schedule property. Defendant No.3 did not cross examine plaintiff. Evidence of plaintiff is unchallenged

and hence proved. Considering the relationship between the parties, they shall bear their respective costs.

5. Hence in the result, a preliminary decree for partition and separate possession is passed as follows:-

1. Plaintiff is entitled to $\frac{1}{4}$ share in plaint schedule property
2. Defendants are entitled to $\frac{1}{4}$ share each in plaint schedule property.
3. Plaintiff can, and defendants on payment of court fee can apply for passing final decree and then obtain separate possession.
4. Parties shall bear their respective costs. Suit is adjourned sine die.

Dictated to the Confdl. Asst. transcribed by her, corrected and pronounced by me in the open court on this the 10th day of September, 2021.

Sd/-
Aneesh Chacko. K
Principal Munsiff.

APPENDIX:-

<u>Plaintiff's Exhibits:-</u>		
A1.	26.03.1983	Certified copy of Document No. 1734/1983 of SRO, Kochi.
A2.	27.10.2018	Lawyer notice.

<u>Defendants Exhibits:-</u>		Nil
<u>Court Exhibits:-</u>		Nil
<u>Plaintiff's Witness:-</u>		
PW1	02.09.2021	Flory Antony
<u>Defendants Witness:-</u>		Nil
<u>Court Witness:-</u>		

Id/-
Principal Munsiff

BL
compd.by: