

**IN THE COURT OF THE MUNSIFF, KOCHI**

**Present :-**

**Sri. Anirudhan.T.K , Additional Munsiff**

Friday the 6<sup>th</sup> day of December, 2024/ 15<sup>th</sup> Agrahayana, 1946

**O.S. No. 181/2018**

**Plaintiff:-**

Abdul Samad, aged 48 years, S/o.K V Mohammed Ali,  
Kundookkan House, Kulachiparambu, Karuvelipady, Kochi-  
682005

By Adv. Suraj krishna B S

**Defendants:-**

- 1 K M Jalal, aged 55 years, S/o.K V Mohammed Ali, Kundookkan House, Kulachiparambu, Karuvelipady, Kochi-682005
- 2 K M Ramlath, aged 54 years, D/o.K V Mohammed Ali Kundookkan House, Kulachiparambu, Karuvelipady, Kochi-682005
- 3 K M Haseena, aged 53 years, D/o.K V Mohammed Ali Kundookkan House, Kulachiparambu, Karuvelipady, Kochi-682005
- 4 K M Sakeena, aged 52 years, D/o.K V Mohammed Ali Kundookkan House, Kulachiparambu, Karuvelipady, Kochi-682005
- 5 Arifa Sainudheen, aged 51 years, D/o.K V Mohammed Ali, Mangalath Veedu, House No.688/533, Kuthiathodu, Cherthala Taluk, Alappuzha

6 Ramlath Rahim, aged 38 years, W/o.Late.K M Rahim,  
Puthuparambathu House, House No.16/1572, Thoppumpady PO,  
Kochi-682005

D1 to D4 By Adv. Sumeeda M S (Exparte)

D5 & D6 By Adv. Akhilesh

This suit coming on for final hearing before me on 02.12.2024 in the presence of above advocates concerned and having stood over for consideration to this day, the Court delivered the following:-

### **JUDGMENT**

Suit is for partition and separate possession.

2. Plaint summary is as follows:- The plaintiff and defendant Nos.1 to 5 are the children of late K.V.Muhammed Ali and Sainaba Muhammed Ali. Muhammed Ali died intestate on 20.11.2009 and Sainabha Muhammed Ali died intestate on 16.03.2016. They are having 7 children, three males and four females. One son, K.M.Rahim died intestate he is survived by his widow, the 6<sup>th</sup> defendant. The parties are Sunni Muslims therefore they are governed by the principles of Muhammeden Law applicable to Sunnis, in the matter of succession. Late Sainabha Muhammed Ali was the owner in possession and

enjoyment of having an extent of 6 cents of land and a residential building constructed therein. She obtained the land by virtue of deed No.119/1976 of SRO, Kochi. The residential house was built jointly by late Muhammed Ali and Sainabha Muhammed Ali. This property is shown herein as plaint schedule property. At present the plaintiff and defendants are the joint owners of the plaint schedule property. After the death of mother, the plaintiff several times requested with the defendant Nos.1 to 5 to partition the plaint schedule property but no steps were taken for the same.

3. The property is to be partitioned into 36 shares and plaintiff is entitled for 8/36 shares. The 1<sup>st</sup> and 6<sup>th</sup> defendants are being the legal heirs of deceased brother of the plaintiff, are entitled 8/36 shares each in the plaint schedule property. The defendant Nos.2 to 5 are jointly entitled the remaining 12/36 shares in the plaint schedule property. Therefore the plaintiff filed the suit.

4. The defendant Nos.2, 3 and 4 filed written statement but when the suit was listed for trial they were called absent and set exparte. 1<sup>st</sup> defendant was served with summons but he did not appear before the

court. Hence he was also set exparte. The defendant Nos.5 and 6 they are admitting the claim of the plaintiff.

5. Considering the admission of the defendant Nos.5 and 6, the plaintiff was examined as PW1. Exts.A1 was marked and C1, C1(a) were marked subject to proof and no steps were taken by the plaintiff to mark the documents in evidence. Ext.C2 was the report of the Village Officer, Thoppumpady.

6. The evidence adduced by the plaintiff stands unchallenged and there is no reasonable ground to disbelieve the plaintiff's evidence. Therefore, the plaintiff is entitled for a relief as prayed for.

**In the result, the suit is decreed and a preliminary decree is passed as follows:-**

- a) The property is found partible.**
- b) The plaintiff is entitled for 8/36 share in the plaint schedule property.**
- c) The allotment of the shares to the defendants will be considered after producing required stamp duty.**

**d) Any party who remits the court fee shall apply for a final decree.**

**e) Ext.C2 shall form part of the final decree.**

**f) The plaintiff is also entitled to the costs of the suit.**

**The suit is posted for further steps on 23.01.2025**

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in Open Court on this the 6<sup>th</sup> day of December 2024).

**Sd/-  
Anirudhan T K  
Additional Munsiff**

**APPENDIX :**

**Plaintiff's Exhibits:-**

A1	16.01.1976	Certified copy of document No.119/1976 of SRO Kochi
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**Defendant's Exhibits:-** Nil

**Court's Exhibits:-**

C1	01.08.2018	Commission report filed by Jency (subject proof)
C1 (a)	–	Rough sketch(subject proof)
C2	–	Village Officer report

**Witness Exhibits** Nil

**Plaintiff's Witness:-**

PW1            04.08.2023    Abdul Samad  
                         14.08.2023

**Defendant's Witness:-**            Nil

**Court's Witness:-**                    Nil

**Id/-  
Additional Munsiff**

**//True Copy//**

**Additional Munsiff**

SS  
compd by

**JUDGMENT**  
**O.S. No.181/2018**  
**Dated : 06.12.2024**