

**IN THE COURT OF THE MUNSIF, KOCHI**

**Present :-  
Smt. Simi P Siju, Additional Munsiff**

Wednesday the 16<sup>th</sup> day of July 2025/ 25th Ashada, 1947

**O.S. No. 219/2024**

**Plaintiff:**

Rahul, aged 38 years, S/o.Rethnakaran, Eraviyehath House, V P Sasi Road, Palluruthy, Pin-682006

By Adv. Joby Kuriakose T J

**Defendants:**

- 1 Saleela Rethnakaran, aged 66 years, W/o.Rethnakaran, Eraviyehath House, V P Sasi Road, Palluruthy, Pin-682006
- 2 Ragi, aged 36 years, W/o.Jithu, Jayalayam House, Kannankattu, Edakochi, Pin-682010

By Advs. Surajkrishna, Neethu T P & Athira Antony  
(Exparte)

This suit coming on for final hearing before me on 10.07.2025 in the presence of above advocates concerned and having stood over for consideration to this day, the Court delivered the following:-

**JUDGMENT**

The suit is one for the partition.

2. **The plaint averments in brief are as follows:-** The 1st defendant is the wife of late Rethnakaran. The plaintiff and the

2nd defendant are the children of the 1st defendant and Retnakaran. The plaint schedule property having an extent of 1.400 cents, comprised in survey No. 896 of Palluruthy Village was owned and possessed by Retnakaran as per Sale Deed No. 3571/2004 of SRO Kochi. Retnakaran died intestate on 30.08.2018. After the death of Retnakaran, the plaintiff and defendants are the legal heirs and they inherited the property as per the Hindu Succession Act. The plaintiff is not intending to hold the plaint schedule property jointly. Hence the plaintiff desires to partition the plaint schedule property by metes and bounds. The plaintiff is entitled to get  $\frac{1}{3}$  share over the plaint schedule property and the defendants are jointly entitled to get  $\frac{2}{3}$  share of undivided right over the plaint schedule property. On 20/10/2022 the plaintiff approached the defendants and expressed her desire and necessity of partition of the plaint schedule property by metes and bounds. But the defendants are not amenable for partition. To settle the issue, the plaintiff's near relatives intervened in this matter. But the same was a futile exercise. When the plaintiff demanded the partition of plaint schedule property, immediately the 1st defendant filed a domestic violence case against the plaintiff and his wife under Protection of Women from

Domestic Violence Act 2005. Hence the plaintiff has no other option than to approach this court to redress his grievances. Hence the suit.

3. On issuance of summons, defendants entered appearance, but not filed any written statements. Accordingly, the suit proceeded against the defendants by setting them exparte.

**4. Following issues were settled for determination:-**

(i) Whether the plaint schedule property is partible?

(ii) If so, what would be the share entitled to each party?

(iii) Reliefs and Costs?

5. On the side of the plaintiff, PW1 was examined and Ext. A1 was marked.

6. Heard the learned counsel for the plaintiff.

7. **Issues No.1 and 2:-** PW1, Rahul, the plaintiff, filed a proof affidavit in lieu of examination in chief reiterating the averments in the plaint. According to him, the 1st defendant is the wife of Late Retnakaran. The plaintiff and the 2nd defendant are the children of the 1st defendant and Retnakaran. The plaint schedule property having an extent of 1.400 cents, comprised in survey No. 896 of Palluruthy Village was owned and possessed by Retnakaran as per

Sale Deed No. 3571/2004 of SRO Kochi. Retnakaran died intestate on 30.08.2018, leaving behind the plaintiff and defendants as legal heirs. As per the Hindu Succession Act, the plaintiff is entitled to get  $\frac{1}{3}$  share, while the defendants jointly hold  $\frac{2}{3}$  undivided share in the plaint schedule property. The plaintiff sought partition of Plaint Schedule Property by metes and bounds. He approached the defendants on 20/10/2022 expressing his intention for partition, but they refused for the same. Subsequently, when the plaintiff demanded partition, the 1st defendant countered by filing a domestic violence case against the plaintiff and his wife.

8. Ext. A1 is a sale deed evidencing the fact that the Late Retnakaran had purchased the plaint schedule property. The unchallenged evidence of PW1 coupled with the Ext. A1 proved the plaint averments and cause of action for the suit. Accordingly, it is found that the plaint schedule property is partible and the plaintiff is entitled to get  $\frac{1}{3}$  share of the plaint schedule property and the defendants are entitled to get  $\frac{2}{3}$  share in the plaint schedule property. Accordingly, issue No.1 and 2 is found in favour of the plaintiff.

9. **Issue No.3:-**In the light of findings in issue No.1 and 2, the suit is decreed and preliminary decree is passed as follows:-

1. The plaint schedule property is partiable by metes and bounds. The plaintiff is entitled and allotted with  $\frac{1}{3}$  share over the plaint schedule property.
2. The defendants are jointly entitled to get  $\frac{2}{3}$  share over the plaint schedule property.
3. Considering the relationship between the parties, there is no order as to costs.
4. Any of the parties can file the final decree application and the same has to be filed on or before 16/08/2025.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in the open Court on this the 16th day of July , 2025).

**Sd/-  
Simi P Siju  
Additional Munsiff**

**APPENDIX :**

**Plaintiff's Exhibits:-**

A1	30.06.2004	Certified copy of Sale deed No.3571/2004 of SRO Kochi
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**Defendant's Exhibits:-** Nil

**Court's Exhibits:-** Nil

**Witness Exhibits**

**Plaintiff's Witness:-**

PW1      27.06.2025    Rahul

**Defendant's Witness:-**      Nil

**Court's Witness:-**      Nil

**Id/-  
Additional Munsiff**

**//True Copy//**

**Additional Munsiff**

SS  
compd by

**JUDGMENT**  
**O.S. No.219/2024**  
**Dated : 16.07.2025**