

IN THE COURT OF PRINCIPAL SUB JUDGE, NORTH PARAVUR

Present:- Smt. Wincy Ann Peter Joseph, Principal Sub Judge

Tuesday, the 02nd day of June, 2026/ 12th Jyaishta, 1948

O.S. No.28/2017

Plaintiff:-

George, aged 61 years, S/o. Liyopold, Kanappilly Veettil, Varappuzha P.O., Pin – 683 517, Olanadu Kara, Alangad Village, Paravur Taluk.

By Advs. M.B. Stalin & Jimmy Varghese.

Defendants :-

1. Prakasan, aged 69 years, S/o. Kumaran, Maliyekkal Veettil, Pin – 683 518, Koonammavu P.O., Valluvally Kara, Kottuvally Village, Paravur Taluk.
2. Pavanan, aged 59 years, S/o. Kumaran, Maliyekkal Veettil, Pin – 683 518, Koonammavu P.O., Valluvally Kara, Kottuvally Village, Paravur Taluk.
- Addl. D3. Santha Prakasan, aged 67 years, W/o. Prakasan, Maliyekkal Veettil, Koonammavu P.O., Valluvally Kara, Kottuvally Village, Paravur Taluk.
- Addl. D4. Prasanth, aged 42 years, S/o. Prakasan, Maliyekkal Veettil, Koonammavu P.O., Valluvally Kara, Kottuvally Village, Paravur Taluk.
- Addl. D5. Premosh, aged 40 years, S/o. Prakasan, Maliyekkal Veettil, Koonammavu P.O., Valluvally Kara, Kottuvally Village, Paravur Taluk.
- Addl. D6. Praveen, aged 36 years, S/o. Prakasan, Maliyekkal Veettil, Koonammavu P.O., Valluvally Kara, Kottuvally Village, Paravur Taluk.

(Addl. D3 to D6 are Impleaded as per Order In I.A.2/2023 dtd. 10.10.2023)

Exparte.

This suit having been finally heard on 01.06.2026 and the court on same day delivered the following:-

JUDGMENT

Suit for fixation of boundary, recovery of possession, mandatory injunction and permanent prohibitory injunction.

2. Plaintiff's case is briefly stated as follows:- The plaintiff is the owner in possession and enjoyment of the plaint A schedule property, having acquired it through a Settlement Deed registered as No. 1265/1978 at the SRO, Paravur. The plaintiff's father was originally granted 10 cents of land, described as 'B schedule' property, out of a total 50 cents belonging to the predecessor-in-interest of the defendants. After the death of that predecessor, the defendants have been in possession and enjoyment of the B schedule property. The B schedule property is surrounded on its north, east, and south by the plaintiff's A schedule property, and on its west by the property of one person named Shri Surendran. The plaintiff's A schedule property, in turn, is bounded on its north by a public road. The defendants have been using a 5-foot-wide pathway, described as 'C schedule', to access their B schedule property from the public road on the north, and they have been doing so with the plaintiff's permission. Now, the defendants have encroached upon an area of about 8 cents of land, described as 'D schedule' property, which lies between the public road on the north and the B schedule property on the

south. Because of this encroachment, the plaintiff and his brother planted concrete posts in order to put up a fence around their property. However, the defendants pulled out and threw away those posts. Improvements that the defendants have made on the D schedule property are listed separately in the plaint as 'E schedule'. At present, there is no boundary separating the defendants' B schedule property from the plaintiff's A schedule property. The defendants have no legal right over the plaintiff's A schedule property or the D schedule property. For these reasons, the plaintiff has filed the present suit before the court.

3. Defendants filed written statement along with counter claim with following contentions: According to the defendants, the plaintiff's suit is not legally maintainable. They deny that the plaintiff ever gave them any permission to use the pathway described as 'C schedule' to access their 'B schedule' property. The defendants state that they have no obligation to obtain any such permission from the plaintiff to use that pathway. They also deny the plaintiff's allegation that they pulled out and threw away the concrete posts. The defendants further assert that the plaintiff has no legal right over the property described as 'D schedule', and therefore the plaintiff is not entitled to seek recovery of possession of that property. The defendants claim that they have been in adverse possession of the D schedule property since

January 1, 1952. They state that they have been taking fruits and other usufructs from that property and have been in continuous possession and enjoyment of it ever since. Consequently, the defendants argue that the plaintiff's suit should be dismissed, and their counterclaim seeking legal recognition of their rights over the disputed property should be decreed by the court.

4. From the above rival contentions raised by both sides, following issues were framed:

1. Whether the plaintiff is having right, title and interest over the plaint A schedule property?
2. Whether the defendants had encroached into the plaint D schedule property as alleged?
3. Whether the plaintiff is entitled to an order of fixation of boundary separating plaint A and B schedule properties as alleged?
4. Whether the plaintiff is entitled to recover the possession of the plaint D schedule property?
5. Whether the plaint is entitled to a decree of mandatory injunction to remove plaint E schedule property?

6. Whether the plaintiff is entitled to a decree of permanent prohibitory injunction as prayed for?
7. Whether the defendants / counter claim plaintiffs are entitled to a decree of declaration of their right of adverse possession over the plaint D schedule property?
8. Whether the defendants / counter claim plaintiffs are entitled to a decree of permanent prohibitory injunction as prayed for?
9. Reliefs and costs.

5. Earlier, when the suit was listed for trial on 12.06.2024, the defendants were absent and there were no representation for them. Hence, the defendants were set exparte and the counter claim was dismissed and the suit was decreed on 25.06.2024. On 11.11.2025, Counter claim restored as per Order in Restoration Petition No. 14/2025 dated 11.11.2025. Later on, the matter was listed to 21.05.2026. On 21.05.2026 as well, defendants were absent and there were no representation for the defendants. Hence, the defendants were set exparte and the Counter Claim was dismissed. Proof affidavit filed by plaintiff, PW1 and PW2 were examined and Exts.A1 to A4, and Exts.C1, C1 (a), C2 and C2 (a) were marked.

6. Ext.A1 is the original of the Title Deed No. 1265/1978 dated

30.03.1978 of SRO, Paravur, Ext.A2 is the original of the Land Tax Receipt dated 03.01.2017 of Village Office, Kottuvally, Ext.A3 is the certified copy of the Certificate of Purchase of Kudikiddappu dated 20.04.1971 and Ext.A4 is the original of the Disability Certificate for physically handicapped person issued by the District Medical Board Ernakulam dated 06.08.2015. Plaintiff who is examined as PW1 has given evidence in tune with his pleading. C2 (a) plan is relied on by the plaintiff to fix the boundary. Ext.A1 is relied on by the plaintiff to prove his title over the plaint A and D schedules. Therefore the suit is liable to be decreed as the evidence on proof affidavit stands not challenged.

In the result, the suit is decreed as follows:-

1. Plaintiff is granted a decree for fixation of boundary and accordingly, the boundaries separating the plaint A and B schedule properties are fixed along the AB line lying on the south, BC line lying on the east and CD line lying on the north, which are more particularly described in C2 (a) plan which is attached with the decree hereby granted.
2. Plaintiff is allowed to recover the plaint D schedule property having an extent of 8.250 cents which is shown as Plot No.2 shaded in rose color to the C2 (a) plan attached to the decree.

3. Defendants are directed by a mandatory injunction to remove the improvement more particularly shown in the plaint E schedule property from plaint D schedule property at his own costs within two months, failing which the plaintiff will be at liberty to remove the same at his own costs and recover Rs.15,000/- (Rupees fifteen thousand only) by way of removal charge.
4. Defendants and their men are restrained by way of permanent prohibitory injunction from trespassing into the plaint A schedule property which is inclusive of D schedule property and committing any act of waste thereon and from obstructing peaceful use and enjoyment of the said property by the plaintiff and his men.
5. Plaintiffs are allowed to recover the costs of the proceedings from the defendants and their assets.
6. Ext.C2(a) Plan will from part of decree.

Dictated to the Confidential Asst., transcribed and typed by her, corrected and pronounced by me in open court, this the 02nd day of June, 2026.

Sd/-
Wincy Ann Peter Joseph,
Principal Sub Judge.

Appendix:-Plaintiff's Exhibits :-

A1.	30.03.1978	Original of Title Deed No.1265/1978 of Sub Registrar's Office, N. Paravur.
A2.	03.01.2017	Land Tax Receipt issued from Kottuvally Village Office.
A3.	20.04.1971	Certified copy of Certificate of purchase of Kudikidappu.
A4.	06.08.2015	Disability Certificate for Physically Handicapped issued from District Medical Board, Ernakulam.

Defendant's Exhibits : NilPlaintiff's Witness:- Nil.

PW1	21.05.2026	K.L. George.
PW2	21.05.2026	K.L. Martin.

Defendants Witness:- NilCourt Exhibits:-

C1	13.03.2017	Commission Report filed by V.M. Deepak, Advocate Commissioner.
C1(a)	13.03.2017	Rough Sketch prepared by V.M. Deepak, Advocate Commissioner.
C2	29.10.2019	Commission Report filed by Sangeeth C. Subrahmanian, Advocate Commissioner.
C2(a)	29.10.2019	Sketch prepared by Sangeeth C. Subrahmanian, Advocate Commissioner.

Sd/-
Principal Sub Judge.

Typed by: Jagadeeswari
Com. by: Beena T.B.

JUDGMENT IN
O.S.No.28/2017
DTD 02.06.2026