

IN THE COURT OF PRINCIPAL SUB JUDGE, NORTH PARAVUR

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

Thursday, the 10th day of July, 2025/19th Ashada, 1947

O.S. No.183/2023

Plaintiff:-

Raghunathanpillai, aged 61 years, S/o. Parameswaran Nair, Vekkada Parambil, Alangad P.O., Pin – 683 511, Thiruvalloor Kara, Alangad Village, Paravur Taluk.

By Advs. C. Ayyappan & A.J. Balamurali

Defendants :-

1. Krishnakumar, aged 49 years, S/o. Parameswaran Nair, Vekkada Parambil, Near Mahadeva Temple, Alangad P.O., Pin – 683 511, Thiruvalloor Kara, Alangad Village, Paravur Taluk.
2. Durgadevi, aged 60 years, W/o. Parameswaran Pillai, residing at Pulikkapparambil, Vekkada Parambil, near Mahadeva Temple, Alangad P.O., Pin – 683 511, Thiruvalloor Kara, Alangad Village, Paravur Taluk.

By Advs. Exparte (K. Shaju Varghese & A.V. Vinu)

This suit having been finally heard on 05.07.2025 and the court on 10.07.2025 delivered the following:-

JUDGMENT

Suit for the reliefs of partition and separate possession.

2. The averments in the plaint are as follows:- The plaintiff and the defendants are the children of late Shri Parameswaran Nair.

They had a sibling, Viswanathan, who predeceased them. Their mother, Smt. Ambujakshi Amma, passed away on 30.07.2016. The properties jointly owned by the plaintiff, the defendants, their deceased brother Viswanathan, and their mother Ambujakshi Amma were partitioned as per Partition Deed No. 2724/1997. As per the said Partition Deed, the parties have been enjoying the respective properties according to their allotted shares i.e., the plaint A schedule properties have been allotted to the brother Viswanathan Pillai, plaint B schedule properties to the plaintiff, the plaint C schedule properties were jointly allotted to the first defendant and their mother, Smt. Ambujakshi Amma, the plaint D schedule properties were allotted solely to the first defendant and plaint E schedule properties to the second defendant. Subsequent to the sale of a portion of the plaint C schedule properties, which had been jointly allotted to the first defendant and the mother, the balance property remained in which the mother had a half undivided share. Upon the demise of mother, this $\frac{1}{2}^{\text{nd}}$ share devolved upon the plaintiff and the second defendant equally, i.e., $\frac{1}{4}^{\text{th}}$ share each. The plaintiff and the second defendant have been paying land tax in respect of the said property and both have joint ownership and

possession rights therein. It is pertinent to state that the first defendant was financially dependent on the mother, having no regular employment. The residential house standing on the plaint schedule property was constructed utilizing funds generated from the sale of certain properties belonging to the mother. The plaintiff and the second defendant took care of all the needs and requirements of their mother. As per the Settlement Deed No. 4284/2014, the first defendant has $\frac{2}{4}^{\text{th}}$ share and the plaintiff and the second defendant have $\frac{1}{4}^{\text{th}}$ share each in the remaining $\frac{2}{4}^{\text{th}}$ share. Despite repeated requests by the plaintiff to the defendants for partition and separate possession of their legitimate $\frac{1}{4}^{\text{th}}$ share in the plaint schedule property and the residential building situated thereon, the defendants have evaded and delayed the process under various pretexts. Therefore, the plaintiff is entitled for $\frac{1}{4}^{\text{th}}$ share of the plaint schedule property and the residential building therein. Hence, this suit.

3. The 1st defendant filed written statement by raising the following contentions :- The plaint schedule property is not co-ownership property and it is under the possession, enjoyment and ownership of the first defendant. No one has the right over the same.

The properties are partitioned as per Partition Deed No. 2724/1997 and the old residential building therein was demolished in the year 2007 and the construction of new house was started in the year 2008 by taking loan from the Punjab National Bank. After closing the above said loan, the first defendant and his mother pledged the plaint schedule property at Co-operative Bank, Neerikkode for availing loan for the purpose of sending the son of second defendant abroad. The Settlement Deed No. 4284/2014 is fake and he did not know about the same. It is not true that the first defendant had sell some of the properties of their mother and needs of her was fulfilled by plaintiff and second defendant. The plaintiff and second defendant have no right in the plaint schedule property and the plaintiff has not demanded the right till now. Hence, the suit is to be dismissed.

4. Following issues were settled for trial:-

1. Whether the plaint schedule property is partible?
2. Whether the plaintiff is entitled to the $\frac{1}{4}$ th share in the plaint schedule property as claimed for?
3. Reliefs and Costs?

5. The second defendant has not filed written statement within the prescribed time. Hence, the second defendant was set ex parte. On the date of the list, the first defendant was absent. There is representation for the first defendant but was not ready to cross examine PW1. Hence, the defendant was set ex-parte. The plaintiff filed proof affidavit and was examined as PW1 and Exts. A1 to A3 were marked.

6. Heard the learned counsel for the plaintiff.

7. In support of the claim put forwarded by the plaintiff, Ext.A1 is the original of the Settlement Deed No. 4284/2014 dated 27.09.2014 of S.R.O, Alangad. Ext.A2 is the land tax receipt for the year 2023-2024 dated 08.09.2023 of the Village Office, Alangad. Ext.A3 is the land tax receipt for the year 2020-2021 dated 19.11.2020 of the Village Office, Alangad. The evidence of PW1 and Exts.A1 to A3, proved the pleadings of plaintiff with regard to the co-ownership right of both parties in the plaint schedule property. Considering the evidence of PW1 and Exts. A1 to A3 documents, it is found that the plaintiff is entitled to get the partition of the plaint schedule property

as per the ratio of share as claimed in this suit. Considering the evidence of PW1, it is also found that the plaintiff is also entitled to get the decree of permanent prohibitory injunction as claimed. Hence, the suit is to be decreed.

8. In the result, the suit is decreed as follows:

- 1) A preliminary decree of partition is passed that the plaint schedule property shall be partitioned into three shares by metes and bounds and the plaintiff is entitled to get separate possession of $\frac{1}{4}$ th share in the said property.
- 2) Considering the nature of the suit and the relationship of both parties, costs need not be ordered. Hence there is no order as to costs at this stage of the suit.

Dictated to the Confidential Asst., typed by her, corrected and pronounced by me in open court, this the 10th day of July, 2025.

Wincy Ann Peter Joseph,
Principal Sub Judge.

Appendix:-

Plaintiff's Exhibits:-

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|-----|------------|---|
| A1. | 27.09.2014 | Original Settlement Deed No.4284/14 of Sub Registrar's Office, Alangad. |
| A2. | 08.09.2023 | Land Tax Receipt for the period from 2023-24 of Alangad Village Office. |

A3. 19.11.2020 Land Tax Receipt for the period from 2020-21 of Alangad Village Office.

Defendant's Exhibits:- Nil.

Court Exhibits:- Nil.

Plaintiff's Witness:-

PW1 05.07.2025 P. Raghunathan Pillai

Defendant's Witness:- Nil.

Principal Sub Judge.

Typed by:Jagadeeswari M.V
Com. By:Swapnamol

JUDGMENT IN
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DTD 10.07.2025