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IN THE COURT OF THE SUBORDINATE JUDGE, PERUMBAVOOR.

Present:- Sri. Johnson M.I, Sub Judge.

Thursday, the 16th day of June, 2022/26th Jyaishta, 1944

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Plaintiff :-

Asma, aged 50 years, W/o Asharaf, residing at Pottachira Parambil,
West Kadungalloor Kara, Alangad Village, Paravoor Taluk.

By Advs.M/s K.K.Mohinudheen & Haseem Khan

Defendants :-

1. Subaidha, aged 65 years, W/o Kunnathan Musthafa,
Vallom Bhagom, Kanjirakkatt Kara, Perumbavoor Village,
Kunnathunad Taluk.
2. Naseema, aged 56 years ,W/o Sathar, Kanjirathinkal House,
House No.10, Karukappilly Junction, Eecharangad Road,
Kaloor Bhagom, Edappilly Kara, Edappilly North Village,
Kanayannoor Taluk.
3. Najeeba, aged 48 years, W/o Jaleel, Kunnumpurath House,
Thottumugham Kara, Aluva East Village, Aluva Taluk.
4. Ali, aged 69 years, S/o Kochumuhammed, Moothedan House,
Allapra Bhagom, Vengola Kara, Vengola Village,
Kunnathunad Taluk.
5. Basheer, aged 53 years, S/o Kochumuhammed, Moothedan House,
Allapra Bhagom, Vengola Kara, Vengola Village,
Kunnathunad Taluk.
6. Latheef, aged 51 years, S/o Kochumuhammed, Moothedan House,
Allapra Bhagom, Vengola Kara, Vengola Village,
Kunnathunad Taluk.
7. Pathumma, aged 84 years, W/o Late Kochumuhammed,
Moothedan House, Allapra Bhagom, Vengola Kara,
Vengola Village, Kunnathunad Taluk.

8. Noorjahan, aged 60 years, W/o Late Sulaiman, S/o Kochumuhammed, Moothedan House, Allapra Bhagom, Vengola Kara, Vengola Village, Kunnathunad Taluk.
9. Rijal, aged 35 years, S/o Sulaiman, Moothedan House, Allapra Bhagom, Vengola Kara, Vengola Village, Kunnathunad Taluk.
10. Rija Niyas, aged 41 years, D/o Sulaiman, Asset Home, North Star 8A, Toll Gate, Edappilly- 682024.
11. Shahida Makkar, aged 49 years, D/o Atha, (D/o Kochumuhammed), Ambissery House, South Vazhakkulam, Chembarakky- 683105.
D1 to D11 - Exparte.

This Suit is coming on for final hearing before the on 16.06.2022 in the presence of the counsel for plaintiff and the Court on the same day delivered the following :-

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Suit is for partition.

2. Plaintiff's case in brief is as follows:- Plaintiff schedule properties were originally belonged to Kochumuhammed and Kochumuhammed died intestate on 26-11-2010. 7th defendant is wife of Kochumuhammed. Plaintiff, defendants 1 to 6, Sulaiman and Atha are children of Kochumuhammed. Sulaiman and Atha are no more and defendants 8 to 10 are wife and children of Sulaiman. Defendant No.11 is daughter of Atha. Plaintiff and defendants are the only legal heirs of

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Kochumuhammed. On death of Kochumuhammed, plaintiff and defendants became joint owners of plaint schedule properties and they are in joint possession of the same. The parties are governed by Mohammedan Law. Plaintiff does not want to continue joint possession of plaint schedule properties. Hence plaintiff filed the suit for partition. Share of plaintiff in all the properties may be allotted as a single plot in plaint schedule item No.1 or 2 or 4 property. There is an income of Rs.2,00,000/- per year from plaint schedule properties and the plaintiff is entitled to 7/104 share from the same and hence, defendants 4, 5 and 6 are to be directed to pay share of profit to plaintiff with 12% interest. For the said reliefs, plaintiff filed the suit.

3. Defendants remained absent and hence, they were set exparte.

4. Plaintiff filed proof affidavit stating the facts in the plaint and marked Exts.A1 to A4.

5. I heard the counsel for plaintiff.

6. Plaintiff filed proof affidavit stating that plaint schedule properties were originally belonged to Kochumuhammed and Kochumuhammed died intestate on 26-11-2010. It is further stated that,

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7th defendant is wife of Kochumuhammed and plaintiff, defendants 1 to 6, Sulaiman and Atha are children of Kochumuhammed. Further statement in the proof affidavit is that, Sulaiman and Atha are no more and defendants 8 to 10 are wife and children of Sulaiman and defendant No.11 is daughter of Atha. According to plaintiff, plaintiff and defendants are the only legal heirs of Kochumuhammed and on death of Kochumuhammed, plaintiff and defendants became joint owners of plaint schedule properties and they are in joint possession of the same. It is stated that the parties are governed by Mohammedan Law and plaintiff does not want to continue joint possession of plaint schedule properties. Hence plaintiff filed the suit for partition. Plaintiff has prayed for allotting her share in all the properties as a single plot in plaint schedule item No.1 or 2 or 4 property. It is alleged by plaintiff that, there is an income of Rs.2,00,000/- per year from plaint schedule properties and the plaintiff is entitled to 7/104 share from the same and hence, defendants 4, 5 and 6 are to be directed to pay share of profit to plaintiff with 12% interest.

7. Plaintiff has produced certified copies of document numbers 2343/1953, 2646/1953, 856/1961 and 4492/1997 of Perumbavoor S.R.O

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to show that through those documents Kochumuhammed obtained plaintiff schedule item No.1 to 4 properties. From those documents, it can be seen that Kochumuhammed obtained plaintiff schedule item No.1 to 4 properties through those documents. Plaintiff has stated all the facts in the plaint in her proof affidavit and the same are unchallenged. Hence, it is only to be held that, plaintiff has proved that plaintiff schedule properties are partible among plaintiff and defendants. As the parties are governed by Mohammedan Law, D7 who is wife of Kochumuhammed is entitled to $\frac{1}{8}$ share in plaintiff schedule properties. Remaining $\frac{7}{8}$ share was devolved upon children of Kochumuhammed and sons of Kochumuhammed are entitled to double share in the properties than the share belonged to daughters. As per the case of plaintiff, Kochumuhammed has five daughters and four sons and plaintiff is one among the daughters. Accordingly, plaintiff is entitled to $\frac{7}{104}$ share in plaintiff schedule properties. Defendants 1 to 3 are also entitled to $\frac{7}{104}$ share each in plaintiff schedule properties as daughters of Kochumuhammed. Defendants 4 to 6 are entitled to $\frac{14}{104}$ share each in plaintiff schedule properties as sons of Kochumuhammed. Defendants 8 to 10 are jointly entitled to $\frac{14}{104}$ share

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in plaint schedule properties as they are legal heirs of one of the sons of Kochumuhammed namely Sulaiman. Defendant No.11 is entitled to 7/104 share in plaint schedule properties as the only legal heir of one of the daughters of Kochumuhammed namely Atha.

8. Plaintiff has prayed for allocation of her share in all the properties as a single plot. The same can only be decided at the time of passing final decree.

9. Plaintiff has prayed for allotting share of profits and the same also can be decided at the time of final decree.

In the result, the suit is decreed and this court proceeds to pass a preliminary decree as follows:-

1. Plaint schedule properties are found partible among plaintiff and defendants.
2. Plaintiff is entitled to 7/104 share in plaint schedule properties.
3. D7 is entitled to 1/8 share in plaint schedule properties.
4. Defendants 1 to 3 are entitled to 7/104 share each in plaint schedule properties.
5. Defendants 4 to 6 are entitled to 14/104 share each in plaint schedule properties.

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6. Defendants 8 to 10 are jointly entitled to 14/104 share in plaint schedule properties.
7. Defendant No.11 is entitled to 7/104 share in plaint schedule properties.
8. Share of defendants shall be allotted to them on payment of requisite court fee.
9. Share of profits if any shall be decided at the time of passing final decree.
10. Share of plaintiff in all the properties may be allotted as a single plot in plaint schedule item No.1 or 2 or 4 properties as far as it is possible.
11. Any of the parties can file an application for passing a final decree.
12. Cost shall come out of the estate.

Suit is adjourned sine die.

Dictated to the Confdl.Asst., transcribed and typed by her, corrected by me and pronounced in the Open court on this the 16th day of June 2022.

Sd/-
JOHNSON M.I
SUB JUDGE

APPENDIX

Plaintiff's Exhibits :-

A1	07.09.1953	Certified copy of Sale Deed No.2343/1953 issued from S.R.O, Perumbavoor.
A2	22.10.1953	Certified copy of Settlement Deed No.2646/1953 issued from S.R.O, Perumbavoor.
A3	01.03.1961	Certified copy of Sale Deed No.856/1961 issued from S.R.O, Perumbavoor.
A4	30.09.1997	Certified copy of Sale Deed No.4492/1997 issued from S.R.O, Perumbavoor.

Defendant's Exhibits :- Nil.

Court Exhibits :- Nil

Witness Exhibits :- Nil.

Plaintiff's Witnesses :- Nil.

Defendant's Witnesses :- Nil.

Court Witnesses :- Nil.

Sd/-
Sub Judge

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DATED : 16.06.2022