

IN THE COURT OF THE SUBORDINATE JUDGE, DEVIKULAM

Present: Sri.Anyas Thayyil., B.A.L., LL.B., Sub Judge.

On Tuesday the 18th day of June, 2019

O.S.No. 65/2017.

Plaintiffs:

1. George John aged 68 years, S/o.Varkey Ulahannan, Madathinakathu House, Parathode Kara, Mundakkayam Village, Kanjirappally Taluk now residing at 754, East 211th Street, Bronx, New York, U.S.A (First plaintiff is represented by his attorney Mathew aged 60 years, S/o.Mathai, Kunnumalil House, Mavady Kara, Kalkoonthal Village, Udumbanchola Taluk).
2. John aged 53 years S/o.Varkey Ulahannan, Madathinakathu House, Calvary Mount Kara, Thankamony Village, Udumbanchola Taluk.

By Adv.Sri. Thomas Paul.

Defendants:

1. Aleyamma aged 72 years, Erippakkattu Mattappallil House, Kooraly P.O, Elamgulam, Kanjirappally Taluk.
2. Lillykutty aged 65 years, W/o.Joseph, Kothiamadam House, Parathanam P.O, Koottikkal Village, Kanjirappally Taluk.
3. M.J.Mathew aged 63 years S/o.Varkey Ulahannan, Madathinakathu House, Puttady Kara, Anakkara Village.
4. M.J.Jose aged 61 years, S/o.Varkey Ulahannan, Madathinakathu House, Parathode Kara, Mundakkayam Village, Kanjirappally Taluk.
5. Marykutty John aged 55 years, D/o.Varkey Ulahannan, Madathinakathu House, Parathode Kara, Mundakkayam Village, Kanjirappally Taluk.
6. Thankappen @ Joseph aged 49 years, Kalluvathakkal House stated to be residing in Madathinakathu House, Udumbanchola P.O, Adukidanthan Kara, Chathurangappara Village, Udumbanchola Taluk.

Exparte.

This suit coming on for hearing before me on 18/06/2019 and the court on the same day delivered the following:-

J U D G M E N T

Suit for partition.

2. Plaint schedule property belonged to Varkey Ulahannan and Mariyamma Ulahannan the deceased parents of the plaintiff's and defendant Nos. 1 to 5 by virtue of document bearing No.1358/1984 and 1359/1984. The plaint schedule property was mutated in their names in T.P A/c Nos.1757 and 1756. Varkey Ulahannan and Mariyamma died and the plaintiffs and defendants are their sole legal heirs. Sixth defendant was engaged by late Varkey Ulahannan to manage and look after plaint schedule property and other properties of the plaintiffs and defendant Nos.3 and 4. While so in January 2010 Mary Mathew daughter of 1st plaintiff who is settled in USA came to Kerala and made enquiries about the properties. On enquiry it was revealed that 6th defendant made some manipulations regarding the ownership of the property and fraudulently created document bearing No.676/2010 of SRO Udumbanchola purporting to be the partition deed with respect to plaint schedule property entered into between the plaintiffs and defendant Nos. 3 and 4. Plaintiff's and defendant Nos 3 and 4 have not signed the said deed and the same is null, void and no-est in the eye of law and plaintiffs are legally entitled to ignore the same. The said deed does not affect the right, title or interest of the plaintiffs or defendant Nos. 1 to 5 over plaint schedule property. Plaintiffs and defendant Nos. 1 to 5 are entitled 1/7 share each over plaint schedule property. Hence the suit for partition.

3. The defendants were set exparte.

4. 1st Plaintiff filed proof affidavit in lieu of chief examination and exhibits A1 to A10 were marked. Proof affidavit and exhibits prove the plaintiffs' case.

In the result preliminary decree for partition is passed as follows.

1. That plaint schedule property shall be divided into seven equal shares and two such shares shall be allotted to the plaintiff's jointly.

2. Defendant Nos. 1 to 5 are entitled 1/7 share each of that plaint schedule property. It is made clear that the allotment to defendants shall made only on payment of necessary court fees.

3. costs of the suit shall out of the estate.

4. Any of the parties can apply for passing final decree.

5. The suit is adjourned sine-die.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 18th day of June 2019.

1.

**ANYAS THAYYIL,
SUB JUDGE.**

APPENDIX

Plaintiff's Exts:

A1 26/06/1984 Certified copy of Conveyance Deed No.1358/84.

A2 26/06/1984 Certified copy of Conveyance Deed No.1359/84.

A3 True copy of Thandaper Accout No.1757.

- A4 True copy of Thandaper Accout No.1756.
- A5 05/08/2015 Original Death Certificate of P.V.Ulahannan issued by Secretary, Parathodu Grama Panchayath.
- A6 05/04/2019 Original Death Certificate of Mariyamma John issued by Secretary, Chirakkadavu Grama Panchayath.
- A7 23/08/2010 Notarized copy of the Power of Attorney in favour of Mathew.
- A8 11/03/2010 Certified copy of the Said Deed No.676/2010 of SRO, Udumbanchola.
- A9 Certified copy of Passport of Sri.George John.
- A10 28/06/2018 Certified copy of the report of the Finger Print Expert submitted CC.No.229/2014 of Nedumkandam Judicial Magistrate of 1st Class.

Defendant's Exts: NIL

Court Exts: NIL

Plaintiff's Witnesses:

PW1 09/04/2019 George John.

Defendant's Witnesses: NIL

Court Witnesses: NIL

**ANYAS THAYYIL,
SUB JUDGE.**

FAIR JUDGMENT

IN

O.S.No.65/2017

Dated: 18/06/2019.