

IN THE COURT OF THE MUNSIFF, ADIMALY

Present: Sri. AYYAPPALAL, MUNSIFF.

On Friday the 12th day of June, 2026/ 22nd day of Jyaishta 1948

ORIGINAL SUIT No.98/2019

Plaintiffs:

1. C.G.Yesudas, aged 54 years, S/o.C.C.Geevarghese, residing at Chambakkottukudiyil house, Ayakkadu Kara, Thrikkariyoor Village, Thrikkariyoor.P.O., Kothamangalam Taluk, Ernakulam district.
2. Jiji.C.George, aged 45 years, S/o C.C.Geevarghese, residing at Chambakkottukudiyil house, Ayakkadu Kara, Thrikkariyoor Village, Thrikkariyoor.P.O., Kothamangalam Taluk, Ernakulam district.

Additional 3rd plaintiff:

3. Graceful Resorts Private Limited, a company incorporated and registered under the Indian Companies Act, 1956 with No.U55101KL2023PTC081839, having registered office at Ayakkad Kara, Thrikkariyoor.P.O., Thrikkariyoor Village, Kothamangalam Taluk, represented by its managing director Moses Yesudas, aged 29, S/o C.G.Yesudas, Chambakkottukudiyil house, Ayakkad Kara, Thrikkariyoor.P.O., Thrikkariyoor Village, Kothamangalam Taluk-686692.

Additional 3rd plaintiff impleaded as per order in I.A.6/2025 dated 15/07/2025 of Munsiff court Adimaly.

By Adv.Sri.Martindas.V.James.

Defendants:

1. Joseph George, aged 55 years, S/o George Vadakkal, residing at Vadakkal house, Old St. Augustine High School Road, (Near Lissy Hospital), Elamkulam Kara, Elamkulam Village, Kanayannur Taluk, Ernakulam district.
2. Shaji, aged about 45 years, residing at Plachickal house, Sengulam Kara, Sengulam.P.O, Kunchithanny Village, Devikulam Taluk.

By Adv.Sri.Abhilash(Exparte)

This suit coming before me for hearing on 01/06/2026 and having been stood over the consideration till 12/06/2026 in the presence of the above counsel and the court on the same day delivered the following.

JUDGMENT

1. The suit is for Damages and Permanent Prohibitory Injunction.
2. The plaint averments in brief are as follows: The 1st and 2nd plaintiffs, who are brothers, initially acquired 60.75 Ares of land in Re-survey No. 302/3/2, Block No. 14 of Pallivasal Village from the 1st defendant vide Sale Deed No. 408/2007 of SRO Devikulam. The property, well-demarcated and planted with valuable trees such as clove, cinnamon, silver oak, jack, and mango, was being developed into a tourist resort. Subsequently, via Sale Deed No. 2437/2023 dated 20/07/2023, the

property was conveyed to the additional 3rd plaintiff, Graceful Resorts Private Limited, who is presently the absolute owner in possession.

3. It is averred that the 1st defendant previously attempted to fraudulently sell adjacent government marshy land to the plaintiffs, leading to a prior suit (O.S. 65/2009) which was settled through mediation. Harboring enmity from this, the 1st defendant and his henchman, the 2nd defendant, trespassed into the plaint schedule property on 20/09/2014 while the plaintiffs were away. Taking advantage of the stoppage of resort construction due to rain, the defendants unlawfully cut and felled 22 mature trees, removing approximately 4.5 cubic meters of firewood in pick-up jeeps. Upon being informed, the plaintiffs lodged a complaint with the Vellathooval Police, who declined to register a case citing the civil nature of the dispute. The 2nd defendant later returned and openly threatened to cut down all remaining trees. Consequently, the plaintiffs seek damages quantified at Rs. 54,500/- (comprising Rs. 25,000/- for premature timber loss, Rs. 4,500/- for stolen firewood, and Rs. 25,000/- for general damages including mental agony and ecological disturbance), alongside a permanent prohibitory injunction.
4. The defendants entered appearance and filed a written statement denying

all allegations. The 1st defendant contended that the plaint schedule property's boundaries were fraudulently described to encroach upon his retained property. He asserted that the trees cut were standing strictly within his own boundary demarcations and were lawfully sold to the 2nd defendant. The 1st defendant further alleged that the plaintiffs' property is under SARFAESI proceedings by IDBI Bank, resulting in a loss of their legal and physical possession. In an additional written statement filed after the amendment of the plaint, the defendants challenged the maintainability of the suit, arguing that upon conveying the property to the 3rd plaintiff, the 1st and 2nd plaintiffs lost their locus standi, and that the non-joinder of another managing partner, Maria Yesudas, was fatal to the suit.

5. Despite filing the written statements and actively contesting the pleadings initially, the defendants subsequently failed to appear when the case was posted for trial. Consequently, they were called absent and set ex-parte.
6. On the basis of the rival pleadings, the following issues were framed for consideration:
 1. Whether the plaint schedule property is identifiable as alleged?
 2. Whether the plaintiff has got right, title, and possession of the plaint

schedule property?

3. Whether the petitioner is entitled to recover damages from the respondents? If so, what is the quantum of damages liable to be paid?
4. Whether the petitioner is entitled to the injunction as prayed for?
5. In case the suit is liable to be dismissed, whether the respondent is entitled to the compensation as prayed for?
6. Reliefs and costs?
7. **Issues 1 to 5** - In order to prove the plaint claim, the plaintiff was examined as PW1. On the side of the plaintiff, Ext. A1 (Certified copy of Sale Deed dated 22/09/2014), Ext. A2 (Basic Tax Receipt No. KL06010700743/2022), Ext. C1 (Commission Report filed by Adv. Sabu Mathew), and Ext. C1(a) (Rough Sketch) were marked as documentary evidence.
8. I heard the learned counsel for the plaintiffs and perused the documents.
9. PW1 filed an affidavit in lieu of chief examination, reiterating the plaint averments regarding title, continuous possession, and the specific acts of trespass and mischief committed by the defendants. The oral evidence of PW1 remains completely un rebutted. The documentary evidence, specifically Exts. A1 and A2, substantiates the plaintiffs' claim of

possessory title and payment of taxes. Furthermore, the Advocate Commissioner's report (Ext. C1) and the accompanying rough sketch (Ext. C1(a)) clearly identify the physical boundaries of the plaintiff schedule property and corroborate the factum of the trees being cut and felled as alleged by the plaintiffs.

10. Since the defendants opted to remain absent during the trial, they failed to substantiate the contentions raised in their written statements, including their claims regarding the bank's possession or the alleged boundary manipulation. In the absence of any countervailing evidence to dislodge the plaintiffs' proof, the unrebutted testimony of PW1 and the independent findings in the Commission Report conclusively establish the plaintiffs' case. The quantum of damages claimed is reasonable and supported by the averments. Therefore, the plaintiffs' claim stands uncontroverted and is accordingly accepted.

11. Regarding costs, considering the high-handed acts of the defendants and the necessity of this litigation to protect the property, the plaintiffs are entitled to recover the costs of the suit.

In the result, suit is decreed as follows:-

1. The plaintiff is entitled to recover damages quantified at Rs. 54,500/- from the defendants and their assets for the trespass and mischief committed in the plaint schedule property, along with interest thereon at the rate of 12% per annum from the date of the suit till the amount is realized in full.
2. The defendants, their men, and agents are hereby restrained by a decree of permanent prohibitory injunction from trespassing into the plaint schedule property, committing any mischief therein, or committing any act which may disturb the plaintiff's peaceful possession and enjoyment thereof.
3. The plaintiff is entitled to recover the costs of the suit from the defendants.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on the 12th day of June, 2026.

AYYAPPALAL,
MUNSIFF.

APPENDIX

Plaintiff's Exts:

- A1 - 06/02/2007 Sale deed No.408/2007 of SRO Devikulam.
 A2 - 05/04/2024 Land tax receipt No.KL06010700743/2022 issued by Village office Pallivasal.

Defendant's Exts:- NIL

Court Exts:-

- C1 - 24/09/2014 Commission report filed by Adv.Sri.Sabu Mathew.
 C1(a) - 24/09/2014 Rough sketch along with Commission report.

Third Party Exts:- NIL

Plaintiff witness:

- PW1 - 25/05/2026 Jiji.C.George, aged 58 years, S/o.C.C.Geevarghese, residing at Chambakkottukudiyil house, Ayakkad Kara, Thrikkariyoor Village, Thrikkariyoor.P.O., Kothamangalam Taluk, Ernakulam district.

Defendant witness: NIL

Court witness: NIL

**AYYAPPALAL,
MUNSIFF.**