

IN THE COURT OF THE MUNSIFF, KOYILANDY
Present:- Miss. Raveena Naz, Munsiff, Koyilandy
Monday, the 30th day of March, 2026

ORIGINAL SUIT No. 114/2021

Between:

- 1 Nadukkandy Meethal Leela, D/o. KunhIRaman Nair, Aged 67 years, Swastham, Residing at Naduvile Nadukkandy, Naduvannur Amsom Desom, Koyilandy Taluk, Kozhikode District, Kerala State, PO Naduvannur - 673612
- 2 Nadukkandy Meethal Balakrishnan Nair, S/o. KunhIRaman Nair, Aged 65 years, Pensioner, Residing at Naduvile Nadukkandy, Naduvannur Amsom Desom, Koyilandy Taluk, Kozhikode District, Kerala State, PO Naduvannur - 673612
- 3 Nadukkandy Meethal Radha, D/o. KunhIRaman Nair, Aged 62 years, Swastham, Residing at Naduvile Nadukkandy, Naduvannur Amsom Desom, Koyilandy Taluk, Kozhikode District, Kerala State, PO Naduvannur - 673612
- 4 Nadukkandy Meethal Asokan, S/o. KunhIRaman Nair, Aged 61 years, Pensioner, Residing at Naduvile Nadukkandy, Naduvannur Amsom Desom, Koyilandy Taluk, Kozhikode District, Kerala State, PO Naduvannur - 673612
- 5 Nadukkandy Meethal Santha, D/o. KunhIRaman Nair, Aged 59 years, Swastham, Residing at Naduvile Nadukkandy, Naduvannur Amsom Desom, Koyilandy Taluk, Kozhikode District, Kerala State, PO Naduvannur - 673612
- 6 Nadukkandy Meethal Sureshkumar, S/o. KunhIRaman Nair, Aged 56 years, Agriculture, Residing at Naduvile Nadukkandy, Naduvannur Amsom Desom, Koyilandy Taluk, Kozhikode District, Kerala State, PO Naduvannur - 673612

Plaintiffs

- 7 Narayanikutty Amma, W/o. Late. Radhakrishnan Nair, Aged 54 years, Residing at Theruvil Swapnam House, Viyyur Amsom, Kollam Desom, PO Kollam- 673307, Koyilandy Taluk, Kozhikode District, Kerala State,
- 8 Sunilkumar, S/o. Late. Radhakrishnan Nair, Swastham, Aged 48 years, Residing at Theruvil Swapnam House, Viyyur Amsom, Kollam Desom, PO Kollam- 673307, Koyilandy Taluk, Kozhikode District, Kerala State,
- 9 Anilkumar, S/o. Late. Radhakrishnan Nair, Aged 45 years, Govt. Employee, Residing at Theruvil Swapnam House, Viyyur Amsom, Kollam Desom, PO Kollam- 673307, Koyilandy Taluk, Kozhikode District, Kerala State,

Plaintiffs

And:

- 1 Kovilodi Mini, D/o. Late. Rajagopalan, Swastham, Aged 58 years, Atholi Village, Kolakkad Desom, Kolakkad PO, Koyilandy Taluk, Kozhikode District, Kerala State.
- 2 Kovilodi Ramyaraj, D/o. Late. Rajagopalan, Aged 30 years, Atholi Village, Kolakkad Desom, Kolakkad PO, Koyilandy Taluk, Kozhikode District, Kerala State.
- 3 Kovilodi Reshmaraj, D/o. Late. Rajagopalan, Aged 26 years, Atholi Village, Kolakkad Desom, Kolakkad PO, Koyilandy Taluk, Kozhikode District, Kerala State.
- 4 Kovilodi Gangaraj, D/o. Late. Rajagopalan, Aged 14 years, Atholi Village, Kolakkad Desom, Kolakkad PO, Koyilandy Taluk, Kozhikode District, Kerala State.

Defendants

Supplemental

- 5 Bindu, W/o. Sureshkumar, Aged 47 years, Swastham, Naduvilakkandy House, Naduvannur Village, Naduvannur Desom.

Suppl. Defendant No. 5 amended as per Order in IA 6/2024 dated 13.12.2024

COUNTER CLAIM IN ORIGINAL SUIT No. 114/2021

Between:

- 1 Kovilodi Mini, D/o. Late. Rajagopalan, Swastham, Aged 58 years, Atholi Village, Kolakkad Desom, Kolakkad PO, Koyilandy Taluk, Kozhikode District, Kerala State.
- 2 Kovilodi Ramyaraj, D/o. Late. Rajagopalan, Aged 30 years, Atholi Village, Kolakkad Desom, Kolakkad PO, Koyilandy Taluk, Kozhikode District, Kerala State.
- 3 Kovilodi Reshmaraj, D/o. Late. Rajagopalan, Aged 26 years, Atholi Village, Kolakkad Desom, Kolakkad PO, Koyilandy Taluk, Kozhikode District, Kerala State.
- 4 Kovilodi Gangaraj, D/o. Late. Rajagopalan, Aged 14 years, Atholi Village, Kolakkad Desom, Kolakkad PO, Koyilandy Taluk, Kozhikode District, Kerala State.

Counter Claim
Plaintiffs/
Defendants

Supplemental

- 5 Bindu, W/o. Sureshkumar, Aged 47 years, Swastham, Naduvilakkandy House, Naduvannur Village, Naduvannur Desom.

Suppl. Defendant No. 5 amended as per Order in IA 6/2024 dated 13.12.2024

And:

- 1 Nadukkandy Meethal Leela, D/o. KunhIRaman Nair, Aged 67 years, Swastham, Residing at Naduvile Nadukkandy, Naduvannur Amsom Desom, Koyilandy Taluk, Kozhikode District, Kerala State, PO Naduvannur - 673612
- 2 Nadukkandy Meethal Balakrishnan Nair, S/o. KunhIRaman Nair, Aged 65 years, Pensioner, Residing at Naduvile Nadukkandy, Naduvannur Amsom Desom, Koyilandy Taluk, Kozhikode District, Kerala State, PO Naduvannur - 673612
- 3 Nadukkandy Meethal Radha, D/o. KunhIRaman Nair,

Counter
Claim
Defendants/
Plaintiffs

Aged 62 years, Swastham, Residing at Naduvile Nadukkandy, Naduvannur Amsom Desom, Koyilandy Taluk, Kozhikode District, Kerala State, PO Naduvannur - 673612

- 4 Nadukkandy Meethal Asokan, S/o. Kunhiraman Nair, Aged 61 years, Pensioner, Residing at Naduvile Nadukkandy, Naduvannur Amsom Desom, Koyilandy Taluk, Kozhikode District, Kerala State, PO Naduvannur - 673612
- 5 Nadukkandy Meethal Santha, D/o. Kunhiraman Nair, Aged 59 years, Swastham, Residing at Naduvile Nadukkandy, Naduvannur Amsom Desom, Koyilandy Taluk, Kozhikode District, Kerala State, PO Naduvannur - 673612
- 6 Nadukkandy Meethal Sureshkumar, S/o. Kunhiraman Nair, Aged 56 years, Agriculture, Residing at Naduvile Nadukkandy, Naduvannur Amsom Desom, Koyilandy Taluk, Kozhikode District, Kerala State, PO Naduvannur - 673612
- 7 Narayanikutty Amma, W/o. Late. Radhakrishnan Nair, Aged 54 years, Residing at Theruvil Swapnam House, Viyyur Amsom, Kollam Desom, PO Kollam- 673307, Koyilandy Taluk, Kozhikode District, Kerala State,
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Counter
Claim
Defendants/
Plaintiffs

This suit coming on this the 28th day of March, 2026 for final hearing before me in the presence of Sri. Harishkumar. T, Advocate for Plaintiffs/Counter Claim Defendants and Sri. M. P. Sukumaran and Smt. M. Bindu, Advocates for Defendant Nos. 1 to 4/Counter Claim Plaintiffs and Sri. K.P. Damodharan,

Advocate for Defendant No. 5/Counter Claim Plaintiff and having stood over to this day for consideration and the Court delivered the following:

JUDGMENT

The suit is for partition.

2. The averments in the plaint in brief are as follows. The property in item No. 1 of schedule to the plaint belonged to Sri. Kunjiraman Nair by document No. 2175/1956 of Sub Registrar's Office, Naduvannur. Property in item No. 2 of the schedule belonged to Smt. Unniathakutty Amma by document No. 2382/1956 of Sub Registrar's Office, Naduvannur. Out of the said property Smt. Unniathakutty Amma had gifted 5 cents of property to the 4th Plaintiff by document No. 1415/1996 who had transferred the property in favour of the 5th Defendant. Sri. Kunjiraman Nair died on 18.09.1990 and Smt. Unniathakutty Amma died on 16.11.2013. After the death of Sri. Kunjiraman Nair and Smt. Unniathakutty Amma their interest in the property devolved upon Plaintiff Nos. 1 to 6, their sons Sri. Radhakrishnan and Sri. Rajagopalan. Sri. Radhakrishnan also died and his legal representatives were impleaded in the suit as Plaintiff Nos. 7 to 9. Sri. Rajagopalan died and his legal representatives are impleaded as Defendant Nos. 1 to 4. Plaintiff Nos. 1 to 6 are entitled to 1/8 shares each over the plaint schedule properties, Plaintiff Nos. 7 to 9 are jointly entitled to 1/8 shares and Defendant Nos. 1 to 4 are jointly entitled to 1/8 share

over the plaint schedule properties. The 1st Plaintiff is unmarried and is residing at the ancestral house with Plaintiff No. 6 and his family. The plaint schedule properties are the joint possession of the parties. On demand of the Plaintiffs to partition the property, the Defendants were not ready for the same. At the time of death of Sri. Rajagopalan, Smt. Unniathakutty Amma was not in possession of 5 cents of property in item No. 2 of the schedule to the plaint. The Plaintiffs seek for partition of the plaint schedule property and to allot 1/8 share each in favour of Plaintiff Nos. 1 to 6 and 1/8 share jointly in favour of Plaintiff Nos. 7 to 9.

3. Defendant Nos. 1 to 4 filed written statement along with counter claim. Defendant No. 1 is the wife of Sri. Rajagopalan, S/o. Smt. Unniathakutty Amma. Defendant Nos. 2 to 4 are the children of Sri. Rajagopalan. The averment in the plaint that only the property in item No. 1 of the schedule to the plaint is liable to be partitioned is false and denied. The 4th Plaintiff had created settlement deed No. 1415/1996 and got 5 cents of property from Smt. Unniathakutty Amma without the knowledge of other Plaintiff. Smt. Unniathakutty Amma had already agreed that property in item No. 2 of the schedule to the plaint will be given to Sri. Rajagopalan. Sri. Rajagopalan had spent considerable amount for the construction of the house in the property in item No. 1 of the schedule to the plaint as well as for the marriage of the family members. 8.5 sovereigns of gold belonging

to the 1st Defendant was used for the 5th Plaintiff and it was agreed by the share holders that it will be returned during partition. Sri. Rajagopalan expired on 01.03.2007. The 4th Plaintiff borrowed the amount received by the 1st Defendant on the death of her husband. Later, the 4th Defendant also agreed that 5 cents of property obtained by him from the mother will be sold to the Defendants considering the amount of Rs. 90,000/- (Rupees Ninety Thousand only) as consideration. The title deed of the 4th Plaintiff was also handed over to the 1st Defendant. It was also agreed that 3 cents of property in item No. 2 of the schedule to the plaint will be sold to the Defendants considering the value of the gold given by the 1st Defendant and the amount spent by Sri. Rajagopalan for his family which is approximated as Rs. 54,000/- (Rupees Fifty Four Thousand only). All these facts are known to the Plaintiffs. Sri. Rajagopalan had spent an amount of Rs. 1.5 lakhs for construction of the house in item No. 1 of the schedule to the plaint. At the time of partition the said amount has to be reserved to the share of the Defendants. The furniture in the house including 2 steel almirah, one double cot bed, wooden table, kitchen utensils also belonged to the 1st Defendant. The Defendants are also entitled to give the other share holders the value of their shares in case the plaint schedule properties are allotted in favour of the Defendants. The Defendants by way of counter claim seek for relief of mandatory injunction

directing the counter claim Defendants/Plaintiffs to execute a sale deed transferring their interest over counter claim A and B schedule properties in favour of the Defendants.

4. Defendant No. 5 filed written statement contending as follows: The Defendant is in ownership and possession of 5 cents of property in item No. 2 of the schedule to the plaint as per document No. 329/22 of Sub Registrar's Office, Naduvannur. Neither the Plaintiff nor Defendant Nos. 1 to 4 had any interest over the said property. It was only on 08.10.2024 it has come to the knowledge of the Defendant that property in item No. 2 of the schedule to the plaint also includes the property having extent of 5 cents purchased by this Defendant. The averment in the counter claim filed by Defendant Nos. 1 to 4 that it was agreed to transfer 5 cents of property in item No. 2 of the schedule to the plaint in favour of Defendant Nos. 1 to 4 and that it was agreed by the Plaintiffs that plaint property in item No. 2 of the schedule to the plaint will be sold to Defendant Nos. 1 to 4 are false and denied. Property having extent of 5 cents included in the property in item No. 2 of the schedule to the plaint was transferred by Smt. Unniathakutty Amma in favour of his son Sri. Asokan and Sri. Asokan had transferred his interest in the property in favour of this Defendant by document No. 329/22 of Sub Registrar's Office, Naduvannur. Neither the Plaintiffs nor Defendant Nos. 1 to 4 are in possession of the property

purchased by this Defendant as shown in the schedule to the written statement.

5. The Plaintiffs had filed written statement to the counter claim filed by Defendant Nos. 1 to 4. The averments in the counter claim are false and denied by the Plaintiffs. Smt. Unniathakutty Amma had never agreed that property in item No. 2 of the schedule to the plaint will be given to Sri. Rajagopalan, predecessor in interest of Defendant Nos. 1 to 4. The averment in the counter claim that the Plaintiffs had received money from the predecessor in interest of Defendant Nos. 1 to 4 for the construction of the house in item No. 1 of the schedule to the plaint are false and denied. The averment in the counter claim that 8.5 sovereigns of gold belonging to the 1st Defendant were used for the 5th Plaintiff is also denied. There was no circumstance to receive the gold ornaments of 1st Defendant for the marriage of the 5th Plaintiff. If Sri. Rajagopalan had borrowed the gold ornaments from the 1st Defendant, such liabilities cannot be considered at the time of partition of the plaint schedule properties. The averment in the counter claim that the 4th Plaintiff had borrowed money from the 1st Defendant after the death of Sri. Rajagopalan is also denied. There was never an agreement to sell 5 cents of property to counter claim Plaintiffs. The contention in the counter claim that during mediation talks it was agreed that 3 cents of property in the property in item No. 2 of the

schedule to the plaint will be sold to Defendant Nos. 1 to 4 in return of the amount spent by Sri. Rajagopalan and for the use of 8.5 sovereigns of gold belonging to the 1st Defendant for the marriage of the 5th Plaintiff is false and denied. No separate amount was spent by Sri. Rajagopalan for the construction of the house in the plaint schedule property. Defendant Nos. 1 to 4 are only entitled to 1/8 shares in the plaint schedule property and the averment in the counter claim that the house is to be allotted to their share is unreasonable. Sri. Rajagopalan had purchased 40 cents of property in Naduvannur Town and a house in Kozhikode Town. No utensils used in the house in the plaint schedule property belonged to the 1st Defendant. The counter claim is to be dismissed with costs to the counter claim Defendants.

6. Upon rival contentions, the following issues arose for consideration:
 1. What are the shares to which the Plaintiffs and Defendants are entitled to?
 2. Whether the Defendant Nos. 1 to 4 have any reservation over house in item No. 1 of plaint schedule property?
 3. Are the Defendants entitled to A and B schedule properties in plaint?
 4. What shall be the order as to costs?
7. The 4th Plaintiff mounted the witness box and was examined as PW1. Exts. A1, A2, A3, A3(a) were marked from the side of the Plaintiffs. The 5th Defendant mounted the witness box, was examined as DW1 and Ext. B5 was marked. The 1st Defendant mounted the witness box and was

examined as DW2. Exts. B1 to B4 and B6 marked from the side of Defendant Nos. 1 to 4.

8. Heard both sides.

9. **Issue Nos.1 to 3**

The suit has been filed by the Plaintiff for partition of properties in item Nos. 1 and 2 of the schedule to the plaint. As admitted by both parties, property in item No. 1 of the schedule to the plaint belonged to Sri. Kunjiraman Nair, predecessor in interest of the Plaintiff and Sri. Rajagopalan, predecessor in interest of Defendant Nos. 1 to 4. Sri. Kunjiraman Nair died on 18.09.1990 and Sri. Rajagopalan expired in the year 2007. There is also no dispute between the parties on the said facts. No objection has been made by the Defendants for partition of item No. 1 of the schedule to the plaint as per the contentions in the plaint. Therefore, property in item No. 1 of the schedule to the plaint can be partitioned among the Plaintiffs and the Defendant Nos. 1 to 4 by allotting 1/8 shares each in favour of Plaintiff Nos. 1 to 6, 1/8 share jointly in favour of Plaintiff Nos. 7 to 9 and 1/8 share jointly in favour of Defendant Nos. 1 to 4. There is a house in the property in item No. 1 of the schedule to the plaint. Although during evidence it is stated the house in the plaint schedule property has to be allotted to the 1st Plaintiff and DW2 stated that her husband had spent considerable amount for the renovation of the said

house, no evidence had been adduced by either parties to establish any reservation over the house in the property in item No. 1 of the schedule to the plaint.

10. Admittedly, property in item No. 2 of the schedule to the plaint belonged to Smt. Unniathakutty Amma, mother of Plaintiff Nos. 1 to 6, Sri. Radhakrishnan Nair, predecessor in interest of Plaintiff Nos. 7 to 9 and Sri. Rajagopalan, predecessor in interest of Defendant Nos. 1 to 4. Although item No. 2 of the schedule to the plaint was shown as 8 cents, the plaint got amended as 5 cents of the property out of the said 8 cents was transferred by Smt. Unniathakutty Amma in favour of the 4th Plaintiff and the 4th Plaintiff had transferred the same in favour of the 5th Defendant. Defendant Nos. 1 to 4 contended that Smt. Unniathakutty Amma agreed that, considering the amount spent by Rajagopalan Nair for the family, 5 cents of property shall be given to Sri. Rajagopalan. In the counter claim, Defendant Nos. 1 to 4 had stated that the 4th Plaintiff borrowed Rs. 90,000/- (Rupees Ninety Thousand only) from DW2 out of the amount received by her on the death of Sri. Rajagopalan and 4th Plaintiff had agreed to transfer the said 5 cents of property transferred in his favour by Smt. Unniathakutty Amma in favour of Defendant Nos. 1 to 4 for a consideration of Rs. 90,000/- (Rupees Ninety Thousand only). DW2 stated that on receiving Rs. 90,000/- (Rupees Ninety Thousand only), Ext.

B6 settlement deed executed by Smt. Unniathakutty Amma to PW1 was also given to her by PW1. PW1 had stated that there was no necessity for him to borrow Rs. 90,000/- (Rupees Ninety Thousand only) from DW2, and DW2 without the knowledge of the others had taken the original title deed, Ext. B6, from the house where she was residing with other family members. Although in the counter claim Defendant Nos. 1 to 4 had stated that PW1 has caused Smt. Unniathakutty Amma to execute Ext. B6 without the knowledge of any others in the family, in Ext. B6 one of the witnesses is Sri. Radhakrishnan predecessor in interest of Plaintiff Nos. 7 to 9. DW2 also deposed that she has come to know about Ext. B6 in 2007 and she was aware that Smt. Unniathakutty Amma had transferred 5 cents of property in favour of PW1. DW2 admitted that she does not have any document to prove that she is entitled to 5 cents of property covered by Ext. B6. DW2 had also deposed, “1992-ൽ ശാന്ത എന്നവരുടെ വിവാഹ സമയത്താണ് എന്റെ ഭർത്താവിന്റെ അമ്മ എന്റെ ഭർത്താവിനോട് 5 സെന്റ് സ്ഥലം നൽകാമെന്ന് പറഞ്ഞിരുന്നു. വസ്തു അപ്പോൾ തന്നെ എഴുതി വാങ്ങുന്നതിന് തടസ്സം ഒന്നും ഉണ്ടായിരുന്നില്ല, പിന്നീട് മതി എന്ന് എന്റെ ഭർത്താവ് തന്നെ പറഞ്ഞതാണ്. ... നിങ്ങളുടെ ഭർത്താവിന്റെ മരണത്തിന് മുൻപ് തന്നെ നിങ്ങൾക്ക് Ext. B6 ആധാരത്തെപ്പറ്റി അറിയുമായിരുന്നോ (Q) എന്റെ ഭർത്താവിന് അറിയുമായിരുന്നോ എന്ന് എനിക്ക് അറിയില്ല. എനിക്ക് അറിയില്ല. (A) Ext. B6 ആധാരത്തെപ്പറ്റി ഞാൻ അറിയുന്നത് 2007-ൽ എന്റെ ഭർത്താവിന്റെ മരണശേഷം ആണ്. എന്റെ ഭർത്താവിന്റെ അമ്മയാണ് മേൽപറഞ്ഞ വിവരം എന്നോട്

പറഞ്ഞത്. From the admission of DW2 it is evident that Smt. Unniathakutty Amma had executed settlement deed, Ext. B6, in favour of PW1 and that Smt. Unniathakutty Amma herself told DW2 that she had executed Ext. B6. Although DW2 stated that PW1 had borrowed an amount of Rs. 90,000/- (Rupees Ninety Thousand only) from her after the death of her husband in 2007 and as security had handed over Ext. B6 to her, no document has been produced to prove the same. PW1 denied that he had received any amount from DW2 and that Ext. B6 was given to DW2 as security. Moreover, all the parties were living in the same house and that there were every chances that DW2 had access to the document. The learned counsel for the Plaintiffs relied upon the decision of the Hon'ble High Court of Kerala in **Narayana Pillai v Raghavan Pillai 1986 KLT 2 SN 29** to argue that there is no pleading from the side of the counter claim Plaintiffs/Defendant Nos. 1 to 4 that she was willing to perform the agreement or that demand was made to PW1 for performance of the agreement. There is no whisper either in the pleadings or in the oral testimony of DW2 that a demand was made by her to PW1 for performance of the agreement or that she was ready to perform her part of the contract. Other than a statement that a promise was made by PW1 while borrowing the amount that he shall transfer the property, no other details of the agreement or its performance are stated in the

pleadings or in her oral testimony.

11. Reliance was also placed on the decisions of the Hon'ble High Court of Kerala in **Bhasy v Thomman 2022 (4) KHC 362**, **Balakrishnan v Yakoob and Others 2002 KHC 32** and **Balan M.R (Dr) and Others v Perli Tile Works Pvt. Ltd. Palakkad 2018 (1) KHC 519** by the learned counsel for the Plaintiffs that the burden to prove the existence of oral agreement is on the person who avers its existence. In **Balakrishnan v Yakoob and Others 2002 KHC 32** it was held that in a suit for specific performance on an oral agreement, 'cogent and reliable' evidence must be adduced.
12. When Defendant Nos. 1 to 4 could not challenge Ext. B6 the said property cannot be partitioned as it exclusively belonged to DW1 as per Ext. B6. PW1 had transferred the property obtained by him as per Ext. B6 to the 5th Defendant by Ext. B1. Although the said document was executed during the pendency of the suit, it will not affect the contention of the parties as DW2 had already admitted that Smt. Unniathakutty Amma informed her about the execution of Ext. B6. Therefore, the remaining property which belonged to Smt. Unniathakutty Amma is only having extent of 3 cents.
13. Defendant Nos. 1 to 4 claimed that during mediation talks it was agreed by the Plaintiffs that the said property will be allotted to Defendant Nos. 1 to 4. DW2 deposed, "ഞാൻ ആദ്യവിസ്താര സത്യവാങ്മൂലത്തിൽ

അന്യായക്കാരെല്ലാം കൂടി എനിക്ക് 3 സെന്റ് സ്ഥലം നൽകാം എന്ന് തീരുമാനിച്ചിരുന്നു എന്ന കാര്യം മധ്യസ്ഥ സംസാരത്തിൽ നടന്നതാണ്, ആയത് 2013-ന് ശേഷമാണ്. 2013-ലാണ് ഉണ്ണയാത കുട്ടിയമ്മ മരിച്ചത്. ആ വസ്തു നിങ്ങൾക്ക് ഉണ്ണയാത കുട്ടിയമ്മ മരിക്കുന്നതിന് മുൻപ് തന്നെ എഴുതി വാങ്ങുന്നതിന് തടസ്സമുണ്ടായിരുന്നോ (Q) ആയത് ശരിയല്ലല്ലോ എന്ന് വിചാരിച്ചിട്ടാണ്. 5 cent അവനും എഴുതി വാങ്ങിയില്ലേ (A) നിങ്ങൾക്ക് ഏത് കാലത്താണ് ഈ 3 സെന്റ് വസ്തു എഴുതി തരാം എന്ന് പറഞ്ഞത് എന്ന് പറയാൻ സാധിക്കുമോ (Q) 2014 - 15-ൽ ഒക്കെ അവിടെ 3 തവണ മധ്യസ്ഥത്തിന് പോയിട്ടുണ്ട്. അപ്പോഴായിരിക്കും. (A) എന്തായിരുന്നു മധ്യസ്ഥ ചർച്ച (Q) സുരേഷ് ബാബു എന്നവർക്ക് വീട് നൽകണം. വീടിന് ചിലവാക്കിയ പണമൊന്നും ഞങ്ങൾക്ക് വേണ്ട എന്റെ 8.30 പവൻ സ്വർണ്ണം വേണം എന്നും പറഞ്ഞു. എന്റെ മകൾ അന്ന് 8-ാം ക്ലാസിലായിരുന്നു, അവൾക്ക് അച്ഛന്റെ വകയിൽ എന്തെങ്കിലും കിട്ടണം എന്ന് ഞാൻ പറഞ്ഞു, അപ്പോൾ അവർ 54,000/- രൂപ മകൾക്ക് നൽകാമെന്നും പറഞ്ഞു. (A) മധ്യസ്ഥ ചർച്ചയിൽ പുറമെ നിന്ന് ആരും ഉണ്ടായിരുന്നില്ല. ഞങ്ങൾ കുടുംബക്കാർ മാത്രമേ ഉണ്ടായിരുന്നുള്ളൂ. 54000/- രൂപയ്ക്ക് ഞങ്ങൾക്ക് 3 സെന്റ് സ്ഥലം നൽകാം എന്നായിരുന്നു തീരുമാനിച്ചത്. മധ്യസ്ഥ തീരുമാനം എഴുതി വെച്ച് എഗ്രിമെന്റ് ഒന്നും ഉണ്ടാക്കിയിരുന്നില്ല. തർക്കം ഉണ്ടായിരുന്നതുകൊണ്ടല്ലേ മധ്യസ്ഥ ചർച്ച നടന്നു എന്ന് പറയുന്നത്, അപ്പോൾ മധ്യസ്ഥ ചർച്ചയിലുണ്ടായ തീരുമാനം എഴുതിവെക്കണമെന്ന് തോന്നിയില്ലേ (Q) അനേകം തർക്കമൊന്നും ഉണ്ടായിരുന്നില്ല”.

14. In order to substantiate the contention of Defendant Nos. 1 to 4, Exts. B2 and B3 letters were produced. DW2 deposed that she had given 8.5 sovereigns of gold for the marriage of the 5th Plaintiff and that was a reason why it was agreed that 3 cents of property will be allotted to her.

Ext. B3 is dated 15.02.1992 and Ext. B2 is dated 29.02.1992. DW1 stated that the marriage of the 5th Plaintiff was after the death of Sri. Kunjiraman Nair and that PW1 had asked for gold from DW2 and Sri. Rajagopalan. In Ext. B3 it is stated, "മിനിയേടത്തി ശരണം. കുറച്ചു ആഭരണം അവരുടെ അടുത്തുനിന്നും എടുത്തു കൊടുത്തു, പിന്നെ അവർക്കു അതു adjust ചെയ്യാം. ... 8 പവന്റെ ആഭരണം കൊടുക്കണമല്ലോ". But there is nothing in Exts. B2 and B3 which would evidence that there was a promise to allot 3 cents of property in return of 8.5 sovereigns of gold. No evidence had been adduced by Defendant Nos. 1 to 4 that 8.5 sovereigns of gold belonging to DW2 was given for the marriage of Plaintiff No. 5 in return of any property. Further, the learned counsel for the Plaintiff relied upon the testimony of DW2 wherein she had stated, "Ext. B2, Ext. B3 രേഖകളുടെ സമയത്ത് അമ്മയുടെ പേരിൽ അവർ താമസിക്കുന്ന സ്ഥലമല്ലാതെ മറ്റ് സ്ഥലങ്ങൾ ഉണ്ട്. ഈ രേഖകളിൽ ഞങ്ങൾക്ക് സ്വന്തം തരാം എന്ന കാര്യം പറഞ്ഞിട്ടില്ല. ശാന്ത എന്നവരുടെ വിവാഹത്തിന് നിങ്ങളുടെ കയ്യിൽ നിന്നും എന്തെങ്കിലും സ്വർണ്ണം വാങ്ങിയിട്ടുണ്ടെങ്കിൽ തന്നെ ആയതൊക്കെ വിവാഹ ശേഷം നിങ്ങൾക്ക് തിരികെ തന്നു എന്ന് പറഞ്ഞാൽ ശരിയല്ലേ (Q) ശരിയല്ല. (A) ഉണ്ണൂര കട്ടിയമ്മ എന്നവർക്ക് വസ്തു നിങ്ങൾക്ക് തരണം എന്ന് ആഗ്രഹമൊന്നും ഉണ്ടായിരുന്നില്ല എന്ന് പറഞ്ഞാൽ ശരിയാണോ (Q) അല്ല, അമ്മ പറഞ്ഞിരുന്നു 5 സെന്റ് വസ്തു ഭർത്താവിന് നൽകണമന്ന്. (A) വസ്തു അമ്മയുടെ കയ്യിൽ നിന്നും എഴുതി വാങ്ങുന്നതിന് തടസ്സമുണ്ടായിരുന്നില്ല. ഞങ്ങൾ തമ്മിൽ ആ സമയത്ത് നല്ല സ്നേഹത്തിലായിരുന്നു എല്ലാം കൂടി ഒരുമിച്ച് ആക്കാമെന്ന് വിചാരിച്ചിരുന്നതാണ്".

15. To sum up, Defendant Nos. 2 to 4 are claiming right over the property in item No. 2 of the schedule to the plaint on the grounds that Smt. Unniathakutty Amma had agreed to give 5 cents of property in favour of Sri. Rajagopalan considering the monetary contributions made by him to the family and 3 cents of the property for the 8.5 sovereigns of gold belonging to DW2 used for the marriage of Plaintiff No. 5. As DW2 had admitted that she was aware of Ext. B6 from Smt. Unniathakutty Amma herself, and when DW2 could not prove that PW1 had borrowed an amount of Rs. 90,000/- (Rupees Ninety Thousand only) from her and Ext. B6 was given as security, the said 5 cents cannot be partitioned. Moreover, the said 5 cents has been corrected as 3 cents after amendment to the plaint for limiting the claim over 3 cents of property DW2 deposed that she had given 8.5 sovereigns of gold and during mediation talks in 2014 – 2015 it was agreed by the family members that the value of the gold will be approximated as Rs. 54,000/- (Rupees Fifty Four Thousand only) and the said property will be allotted to Defendant Nos. 1 to 4. There is nothing in Exts. B2 and B3 which would show that DW2 had given 8.5 sovereigns of gold or that there was an agreement to allot 3 cents of property in favour of DW2. Therefore, Defendant Nos. 1 to 4 had failed to establish any right over the property in item No. 2 of the schedule to the plaint. Property in item No. 2 of the schedule to the plaint

can be partitioned among the Plaintiffs and the Defendant Nos. 1 to 4 by allotting 1/8 shares each in favour of Plaintiff Nos. 1 to 6, 1/8 share jointly in favour of Plaintiff Nos. 7 to 9 and 1/8 share jointly in favour of Defendant Nos. 1 to 4.

Issue No. 1 found accordingly. Issue Nos. 2 and 3 found against the Defendant Nos. 1 to 4/counter claim Plaintiffs.

16. **Issue No. 4**

Reckoning the facts and circumstances of the case, no order as to costs.

*In the result, the suit is decreed. Property in item Nos. 1 and 2 of the schedule to the plaint can be partitioned among the Plaintiffs and the Defendant Nos. 1 to 4 by allotting 1/8 shares each in favour of Plaintiff Nos. 1 to 6, 1/8 share jointly in favour of Plaintiff Nos. 7 to 9 and 1/8 share jointly in favour of Defendant Nos. 1 to 4. Counter claim is dismissed. No order as to costs. As it is a partition suit, FDIA proceedings 1/2026 is suo-moto initiated in tune with the decision of Hon'ble Supreme Court of India in **Shub Karan Bubna v. Sita Saran Bubna 2009(9) SCC 689**.*

For steps.

(Dictated to the Confidential Assistant, transcribed by her office computer, corrected and pronounced by me in open Court, on this, the 30th day of March, 2026)

Sd/-
MUNSIFF

Plaintiffs' Witness:

PW1 : 17.03.2026 : Asokan N.K

Plaintiffs' Exhibits:

Ext. A1 : 14.11.1956 : Certified Copy of Assignment Deed
Document No. 2175/1956
Ext. A2 : - : Assignment Deed Between Damodharan
Nair and Unnyathakutty Amma Document
No. 2383/1966
Ext. A3 : - : Ration Card
Ext. A3(a) : - : Ration Card

Defendants' Witnesses:

DW1 : 24.03.2026 : Bindu
DW2 : 24.03.2026 : Mini K.R

Defendants' Exhibits:

Ext. B1 : 23.02.2022 : Janmam Assignment Deed Between Asokan
and Bindu Document No. 329/2022
Ext. B2 : - : Letter
Ext. B3 : - : Letter
Ext. B4 : - : Letter
Ext. B4(a) : - : Cover
Ext. B5 : 12.06.2024 : Tax Receipt
Ext. B6 : 10.06.1996 : Settlement Deed Between Unnyathakutty
Amma and Asokan Document No.1415/1996

Sd/-
MUNSIFF

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