

IN THE COURT OF THE MUNSIF, VATAKARA.

Present: Smt. Aiswarya T., Munsiff
Thursday, the 19th day of March, 2026

ORIGINAL SUIT NO. 88/2025**Between:**

1. Smera K, D/o Raghunath K, aged 48 years, Medical Doctor, Korothe House, Market Road, Vatakara amsom desom, Vatakara Taluk, Kozhikode District, Pin- 673 101.
 2. Raji Raghunath, aged 75 years, Korothe House, Market Road, Vatakara amsom desom, Vatakara Taluk, Kozhikode District, Pin- 673 101.
- } Plaintiffs

And:-

1. Brinda Ramesh, D/o Kannan, aged 73 years, Opposite Malabar Christian College, near CPM Party Office, Kozhikode.
 2. Village Officer, Vatakara amsom desom, Vatakara Taluk, Kozhikode District, Pin- 673 101.
 3. Secretary, Vatakara Municipality.
 4. Tahsildar, Vatakara Taluk, Kozhikode District.
 5. State of Kerala.
- } Defendants

This suit coming on the 16th day of March, 2026 for final hearing before me in the presence of Sri. B. Krishnan and Sri. T. Sivasankaran, Advocates for plaintiffs and of Sri. Shajeev K, Advocate for defendants No. 2, 4 and 5, Sri. K.M. Ramdas, Advocate for defendant No. 3, defendant No. 1 called absent and set exparte and having stood over to this day for consideration, this Court delivered the following.

J U D G M E N T

This suit is for a decree of declaration.

2. The plaint averments in brief are as follows:- The 1st plaintiff is the daughter and 2nd plaintiff is the re-lict of Raghunath K, who died on 09.09.2024. The 4th defendant, who is the Tahasildar of Vatakara Municipality and who is duly empowered to issue a legal heirship certificate has issued a legal heirship certificate to plaintiffs dated 19.06.2025. The plaintiffs are the only living heirs of Raghunath. The Raghunath had a brother by name Padmanabhan who died on 17.12.1997. The wife of Padmanabhan is Jayalakshmi who died on 22.11.2023. Padmanabhan and Jayalakshmi had no children. The only heir of Padmanabhan was his wife Jayalakshmi. Padmanabhan had title to the plaint schedule property. There was a building in the petition schedule property and the business run in the building was inherited by his wife Jayalakshmi when Padmanabhan died. Padmanabhan was paying land tax, building tax and had trade license to run the business. After death of Padmanabhan Jayalakshmi was paying land tax, building tax and had trade license in her name. Padmanabhan, was governed by Marumakkathayam law being a Hindu Thiyya of north malabar. The plaint schedule property, the building therein and the trade conducted therein, which is inherited by Jayalakshmi would devolve upon the heir of her husband's only living brother upon the death of jayalakshmi as per section 17 2(b) of Hindu Succession Act and also under Section 15 of the Hindu Succession Act. The 1st defendant, who is the sister of Jayalakshmi is made a party to the plaint in order to bind her. The 2nd 3rd and 4th defendants are statutory authorities for land tax for property tax and for issue of trade license. The 2nd and 4th defendants are public officer of the 5th defendant. The 5th defendant is joined under Order XXVII Rule 5A of the Code of Civil Procedure. The plaintiffs who are the legal heirs of Raghunath and who are the present owners of the plaint schedule property, the

building and the trade had requested 2nd defendant to receive the land tax by letter dated 7.9.2024 after death of Raghunath. The plaintiffs requested the 4th defendant for the issuance of legal heirship certificate certifying that the heirs of Jayalakshmi is Raghunath and his legal heirs are the plaintiffs. The 2nd and 3rd defendants have been receiving land tax in the name of Jayalakshmi even after her death, but not from the plaintiffs. However, now the acceptance of land tax is revoked by the 2nd and 3rd defendants. The 3rd defendant has been receiving property tax and has issued trade license in the name of Jayalakshmi after her death at the behest of someone else, not the plaintiffs. The 3rd defendant has not been entertaining request from plaintiff for the trade license. The plaint is for declaration that Raghunath is the heir of Jayalakshmi, being the living brother of her husband, at the time of her death which is inherited by the plaintiffs to own the plaint schedule property against the defendants. The payment of land tax, the payment of property tax for the building and the trade license in the name of plaintiffs are the necessary requirements to continue the business, which is approximately 75 years old. Hence the suit.

3. On receipt of summons, the defendants no. 1 has not appeared before the court and so the defendant No.1 was set exparte. Defendant No 2 to 5 appeared through Counsel.

4. A memo of appearance has been filed by the Additional Government Pleader/Additional Public Prosecutor, Vatakara, to prosecute and defend the case on behalf of respondents Nos. 2, 4, and 5. The 3rd defendant, who is the Municipal Secretary of Vatakara Municipality, has filed a vakalath. However, the defendants No.2 to 5 did not file any written statement.

5. The following issues were considered during trial:-

1. Whether Raghunath is the only heir of Jayalakshmi's husband Padmanabhan?
2. Reliefs and costs?

6. To prove the case of the plaintiff, the plaintiff herself was examined as PW1 and Exts.A1 to A9 were marked .

7. Heard the learned counsel for the petitioner.

8. **Issues No.1** :- In this suit, the plaint schedule property belongs to the deceased Padmanabhan. Ext.A1 proves that Padmanabhan is the owner of said property and he is no more. Ext.A2 is the land tax receipt of Jayalakshmi Padmanabhan, who is the wife of Padmanabhan and who is also no more. ExtA3 to Ext.A5 is the death certificates of Padmanabhan, Jayalakshmi and Raghunath respectively. The deceased Raghunath is the brother of Padmanabhan. Ext.A6 is the legal heirship certificate of Raghunath. His wife and daughter who are the plaintiffs herein are his legal heirs. Ext. A7 is the application submitted by the plaintiff before the Village Office Vatakara. Ext.A8 is the application given by the plaintiff to the Taluk Office Vatakara. Ext.A9 is the receipt issued to the plaintiff from the Taluk Office Vatakara.

9. From the documents produced before the court, it is ascertained that Raghunath is the only heir of his brother Padmanabhan, and the plaintiffs who are the daughter and wife of Raghunath are the heirs of Raghunath. Padmanabhan and his brother are Hindus and belongs to Thiyya community governed by Marumakkathayam law when the Hindu Succession Act was promulgated. In this case Padmanabhan died on 17.12.1997 and his wife Jayalakshmi died on 22.11.2023. Thereafter, Raghunath died on 09.09.2024. Jayalakshmi and Padmanabhan had no children. The plaintiffs are heirs of

Raghunath. The plaint schedule property was acquired by Padmanabhan. Padmanabhan was running a business in a building belonging to him in the property. He has paid land tax and he has trade license for running the said business. His wife Jayalakshmi inherited the plaint schedule property, and used to pay land tax. This Court has carefully analysed Section 15 and Section 17 of the Hindu Succession Act.

Section 15- General rules of succession in the case of female Hindus-

I. The property of a female Hindu dying intestate shall devolve according to the rules set out section 16-

- a. Firstly, upon the sons and daughters (including the children of any pre- deceased son or daughter) and the husband;*
- b. Secondly, upon the heirs of the husband;*
- c. thirdly, upon the mother and father;*
- d. fourthly, upon the heirs of the father; and*
- e. lastly upon the heirs of the mother.*

II. Notwithstanding anything contained in sub-section-

a. any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre- deceased son or daughter), not upon the other heirs referred to in sub- section (1) in the specific therein, but upon the heirs of the father; and

b. Any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the husband.

10. By applying the said provision Raghunath would inherit the plaint schedule property from Jayalakshmi as heir of her husband. Thereafter, the plaintiffs would inherit the said property from Raghunath. The suit is filed to establish a right over the plaint schedule property. The 1st defendant is the sister of Jayalakshmi and she is joined in this suit for a decree of declaration. Defendants No.2 to 4 are statutory authorities for land tax, building tax and trade license. The 5th defendant is the government. The plaintiffs are not claiming any relief against defendants No.2 to 5 and the same was submitted by the learned counsel for the plaintiffs during the final hearing of this suit. As the 1st defendant is set exparte and as the defendants No.2 to 5 are continued as proforma parties, with no relief claimed against them, the prayer sought for by the plaintiffs is to be allowed as there is no contra evidence and as the defendant No.1 is set exparte.

11. **Point No.2:-** In the light of discussion held in issue No. 1 a decree of declaring legal heirs is passed as follows:

1. ***Raghunath is the only legal heir of Jayalakshmi's husband Padmanabhan.***
2. ***The plaintiffs are the legal heirs of Raghunath.***
3. ***Parties are directed to suffer their costs.***

(Dictated to the C.A, typed by her in Office Computer, corrected and pronounced by me in Open Court, on this the 19th day of March, 2026)

Sd/-

MUNSIFF, VATAKARA.

Plaintiff's Witness :

PW1 20.02.2026 : Smera K, D/o K. Raghunath.

Plaintiff's Exhibits :

- A1 28.04.1952 : Certified copy of kanam chamayadharam executed by Anandakurup in favour of Padmanabhan.
- A2 02.06.2022 : Land tax receipt for the financial year 2022-2023 issued by Village Officer, Vatakara.
- A3 29.12.1997 : Death certificate in the name of Koroth Padmanabhan issued by Corporation of Calicut.
- A4 09.12.2023 : Death certificate in the name of Jayalakshmi, issued by Vatakara Municipality.
- A5 19.09.2024 : Death certificate in the name of Raghunath K, issued by Vatakara Municipality.
- A6 19.06.2025 : Legal heirship certificate of Raghunath issued by Vatakara Taluk Office.
- A7 07.10.2024 : Application submitted by 1st plaintiff to Village Officer, Vatakara.
- A8 27.06.2025 : Application submitted by 1st plaintiff to Taluk Office Vatakara.
- A9 27.06.2025 : Receipt issued to plaintiff by Taluk Office, Vatakara.

Defendant's Witness : NIL

Defendant's Exhibits : NIL

Sd/-
MUNSIFF, VATAKARA.