

IN THE COURT OF THE MUNSIF, VATAKARA.

Present: Smt. Aiswarya T., Munsiff
Thursday, the 26th day of March, 2026

ORIGINAL SUIT NO. 178/2023**Between:**

Babu, S/o Chathu, 63 years,
residing at Kolora Nivas, Nadakkuthazha amsom desom,
Vatakara Taluk, Kozhikode District, Kerala,
represented by Power of Attorney Holder,
Damodharan E, S/o Balakurup, 67 years,
residing at Erikannoth, Villiappally, Vatakara Taluk,
Kozhikode District, Kerala State.

Plaintiff

And:-

1. Safiya P.P, W/o Late Usman, 59 years,
residing at Hira Mahal, Ramath Thazha Kuniyil,
Puthuppanam Post, Vatakara Taluk,
Kozhikode District, Kerala State.
2. Shihabudheen T.K, S/o Late Usman, 41 years,
residing at Hira Mahal, Ramath Thazha Kuniyil,
Puthuppanam Post, Vatakara Taluk,
Kozhikode District, Kerala State.
3. Shameena P.P, D/o Late Usman, 37 years,
residing at Hira Mahal, Ramath Thazha Kuniyil,
Puthuppanam Post, Vatakara Taluk,
Kozhikode District, Kerala State.
4. Shihas P, S/o Late Usman, 35 years,
residing at Hira Mahal, Ramath Thazha Kuniyil,
Puthuppanam Post, Vatakara Taluk,
Kozhikode District, Kerala State.
5. Safeeda T.K, S/o Late Usman, 28 years,
residing at Hira Mahal, Ramath Thazha Kuniyil,
Puthuppanam Post, Vatakara Taluk,
Kozhikode District, Kerala State.

Defendants

Suppl.

6. Shanavas, S/o Late Usman, 30 years,
residing at Hira Mahal, Ramath Thazha Kuniyil,
Puduppanam Post, Vatakara Taluk,
Kozhikode District, Kerala State.
(Supplemental respondent No. 6 impleaded as per
Order in IA 2/24 dated 07.01.2025 and amended
as per Order in IA 3/24 dated 07.01.2025)

This suit coming on this day for hearing before me in the presence of Sri. C. Subramanyian, Sri. P. Anoop, Smt. Amaya V. and Sri. Abdul Raof V.P, Advocates for plaintiff and of Smt. Aswathi V.P, Advocate for defendants No. 1 to 5 and defendants No. 6 set exparte, this Court delivered the following.

J U D G M E N T

This suit is for Redemption of mortgage and recovery of possession.

2. The plaint averments in brief are as follows:- The shop room described in the plaint schedule and the adjacent shop room bearing door No. 21/520 were belonging to Abdul Noufal, Sameer and Abdul Raof under a registered settlement deed No. 853/1995 of SRO Vatakara. Abdul Raof among the co-owners created a possessory mortgage with respect to the shop room described in the plaint schedule and with respect to the shop room bearing door No. 21/520 in favour of Usman in order to secure a sum of Rs.2000/- under a Registered Possessory Mortgage Deed No. 2207/2000, dated 03.10.2000 of SRO Vatakara. The date fixed for payment of mortgage money was six months from the date of the mortgage. The shop rooms were put in the possession of the mortgagee. Since the profit accruing was more, the mortgagee was bound to pay Rs.1300/- per month to the mortgagor. The original mortgagor had paid half the mortgage money and Usman had released his right and possession in the shop room bearing door No.21/520. The mortgagee, Usman that is, died on 07.07.2020 and his right under the mortgage was devolved on the defendants, who are his wife and children. The plaintiff purchased the building of which the plaint schedule shop room is a part under the registered assignment deed No. 2560/2004 of SRO Vatakara with a right to redeem the aforesaid mortgage. When the plaintiff tendered the mortgage money to the defendants, they have refused to receive the same. Hence the suit.

3. The Defendants No.1 to 5 have filed a counter statement contending as follows:- They admit all the averments made in the plaint. It is true that Abdul Raof had created a mortgage of the plaint schedule shop room in favour of Usman, who is the predecessor of the defendants. It is true that the defendants are holding the plaint schedule shop room as mortgagees. The averment that the defendants refused to receive the mortgage money is false. The defendants have not received the mortgage money on account of a misunderstanding of law. The defendants have no objection in passing a decree for redemption, being granted in terms of the plaint.

4. Defendant No.6. was subsequently made a party to the suit. The notice issued to D6 was returned stating that he is abroad. Hence the plaintiff had taken steps for substituted service and thereafter D6 was proceeded ex-parte.

5. Issues were framed by my predecessor in office as follows:-

1. Is the plaintiff entitled to redeem the mortgage stated in the plaint and for the possession of the shop room described in the plaint schedule ?
2. Reliefs and costs?

6. To prove the case of the plaintiff, the Power of Attorney holder was present and was examined as PW1. He filed proof affidavit and Exts.A1 and A2 were marked. No evidence was adduced on the side of the defendants.

7. Heard both sides

8. **Point No.1 and 2** :- Both the points are considered together for the sake of convenience and clarity. The Power of Attorney holder of the plaint was examined as PW1 and he filed proof affidavit. Ext.A1 is the certified copy of Registered Mortgage deed No.2207/2000 of SRO Vatakara and Ext.A2 is the

copy of Registered Assignment Deed No. 2560/2004 of SRO Vatakara The suit is for redemption of mortgage and possession of plaint schedule shop room. There is no dispute with regard to the redemption of mortgage and possession of the plaint schedule properties as the defendant No.1 to 5 have admitted the same. Since the defendant No.6 is proceeded ex-parte. And as there is no contra evidence before the court, the case of the plaintiff is to be taken into account and a decree is to be passed accordingly. Hence, the plaintiff is entitled to redeem the mortgage and the person of the shop room is to be handed over to the plaintiff. Issues found accordingly.

In the result, the suit is allowed with costs.

(Dictated to the C.A, typed by her in Office Computer, corrected and pronounced by me in Open Court, on this the 26th day of March, 2026)

Sd/-

MUNSIFF, VATAKARA.

Plaintiff's Witness :

PW1 16.03.2026 : Akhil M, S/o Asokan.

Plaintiff's Exhibits :

A1 03.10.2000 : Certified copy of Registered Possessory Mortgage deed No. 2207/2000 of SRO, Vatakara.

A2 08.10.2004 : Photocopy of Assignment deed No. 2560/2004 of SRO, Vatakara.

Defendant's Witness : NIL

Defendant's Exhibits : NIL

Sd/-

MUNSIFF, VATAKARA.