

IN THE COURT OF THE MUNSIFF, KARUNAGAPPALLY

Present: Sri. Praveen Kumar.G, BA.L, LL.B Munsiff

Saturday the 6th day of March, 2021/ 15th day of Phalguna,1942.

OS.NO.60/2017

Between

Plaintiffs:

1. Indiramma, aged 42 years,
D/o Janaki Amma,
Padickal Veedu,
Vadakkumbhagom Muri,
Thekkumbhagom Village,
Karunagappally Taluk.
2. Radhakrishna Pillai, aged 55 years,
S/o Chellappan Pillai,
- do -

By Adv.Sri.S.Sreekumar.

And

Defendants:

1. Sreedevi Pillai, aged 51 years,
D/o Kamalamma Pillai,
Konazhathu Devi Vilasom,
from Padickal Veedu, Vadakkumbhagom Muri,
Thekkumbhagom Village,
Karunagappally.
2. Sreekumar, aged 47 years,
S/o Chellappan Pillai,
Charuvil Vadakkathil,
Mullikkala Muri,
Thevelakkara Village
from Padickal Veedu,
- do -

By Adv.Sri.Francis Jude Netto & R.C.Aji.

Counter Claim in OS 60/2017

Counter Claim
Plaintiffs/ Original
Defendants(1st
defendant):

1. Sreedevi Pillai, aged 48 years,
D/o Kamalamma Pillai,
Konazhathu Devi Vilasom,
from Padickal Veedu, Vadakkumbhagom Muri,
Thekkumbhagom Village,
Karunagappally Taluk.

By Adv.Sri.Francis Jude Netto & R.C.Aji.

Counter Claim
Defendants/Original
Plaintiffs:

1. Indiramma, aged 42 years,
D/o Janaki Amma,
Padickal Veedu,
Vadakkumbhagom Muri,
Thekkumbhagom Village,
Karunagappally Taluk.
2. Radhakrishna Pillai, aged 55 years,
S/o Chellappan Pillai,
- do -

By Adv.Sri.S.Sreekumar.

This suit filed under Section 26 and Order VII Rule 1 of the Code of Civil Procedure for partition.

This suit and counter claim are coming on for final hearing before me on 6/3/2021 and the court on the same day delivered following:

JUDGMENT

Suit for partition.

2. Plaintiff's case, briefly stated, is thus. The plaintiffs are spouses. Defendants are the siblings of the second plaintiff. The plaintiff schedule property was originally owned by the parents of the second plaintiff and the defendants. Of this, their father expired on 05-10-2004. The mother transferred her 5/8 undivided rights thereafter to the first plaintiff as per sale deed number 695/2005. The father, who had one half undivided right over the plaintiff schedule, his rights thereof devolved upon his children and the mother. Accordingly, the second plaintiff and the defendants became entitled to 1/8 shares each over the plaintiff schedule. Since the demand for partition was refused by the defendants, the suit was laid.

3. The defendants filed a written statement along with a counterclaim, seeking a decree of cancellation of sale deed number 695/2005 on the ground that it was fraudulently executed.

4. Issues were framed. When the case was listed for trial, the defendants remained absent. I.A1/21 seeking adjournment was dismissed. The case was decided to be proceeded *ex parte*.

5. The first plaintiff gave evidence as PW1 and marked Exts. A1 to A3.

6. Heard.

7. The evidence given by PW1 shows that the plaint schedule property originally belonged to the father of the second plaintiff and the defendants and on his death, the mother transferred her remaining undivided rights to PW1 by way of Ext.A1 sale deed. The evidence further shows that the remaining shares jointly devolved upon the second plaintiff and the defendants. PW1 has testified that the plaintiff's demand for partition was refused by the defendants. Though Ext.A1 is alleged to be fraudulently executed, no evidence has been adduced to substantiate it and the counterclaim stands dismissed.

The suit is decreed thus.

1. The plaint schedule property is ordered to be divided into 8 equal shares by metes and bounds.
2. The plaintiffs are jointly entitled to six such shares.
3. The defendants are entitled to one such share each. But, separate allotment will be given to them only on payment of necessary court fee.
4. Any of the parties can apply for passing a final decree.
5. Suit is adjourned to sine die.

