

Plaintiffs:- :

1. Padmadevi Amma, aged 58,
D/o Sarasamma Amma,
Thenguvila Keezhathil Veedu, Earath Cherry,
Chathannoor, Meenadu Village,
Kollam Taluk.
2. Sudheendran Pillai, aged 56,
S/o Janardhanan Pillai,
Balakrishna Sadanam, Earathu Cherry,
Chathannoor, Meenadu Village,
Kollam Taluk.
3. Indira Devi Amma, aged 54,
D/o Sarasamma Amma,
Revathy Bhavan, Inchavila,
Anchalummoodu, Kollam Taluk.
4. Remani, aged 52,
D/o Sarasamma Amma,
Ramesh Sadanam, Kottappuram Village,
Paravoor, Kollam Taluk.
5. Rajamohanan Pillai, aged 48,
S/o Sarasamma Amma,
Thenguvila Keezhathil, Earam,
Meenadu Village, Kollam Taluk.
6. Girija, aged 46, D/o Sarasamma Amma,
Madhavam, Paivelikonath, Vettiyyara,
Navayikulam, Varkala Taluk.

7. Geetha, aged 44, D/o Sarasamma Amma,
V.V.Bhavan, Pavoorkonam,
Kizhuvilam Village, Attingal

Addl. 8th Plaintiff 8. Radhakrishna Pillai, aged 60,
S/o Sarasamma Amma,
Thenguvila Keezhathil, Earam,
Meenadu Village, Kollam Taluk.

(Addl.8th Plaintiff is impleaded as per order in IA.343/2019 dated
20.08.2019)

*(By Adv.N.Anil Kumar for 1 to 6 & Adv.R.Harilal
for 8th plaintiff)*

Defendants :- : 1. Ramachandran Pillai, aged 66,
S/o Gopala Pillai, Madankavu Veedu,
Earam Cherry, Meenadu Village, Kollam.

2. Veena, aged 25,
D/o Ramachandran Pillai,
Madankavu Veedu, Earam Cherry,
Meenadu Village, Kollam.

(By Adv. P.K.Sunu)

This suit is coming for hearing before me on 11.01.2022 and on the
same day the court delivered the following:-

J U D G M E N T

Suit for setting aside of settlement deed No. 2240/2013 of
S.R.O Chathannoor and for Partition .

2. The averments contained in the plaint, in brief, are as follows: -

The plaintiffs and the third defendant are the children of late
Sarasamma Amma. The parties are Hindus and are governed by Hindu

Succession Act. The first defendant is the brother of Sarasamma Amma. The second defendant is the daughter of the first defendant. Balachandran Pillai, the brother of the first defendant and Sarasamma Amma died intestate on 24.03.2005 leaving behind the first defendant and Sarasamma Amma as the heirs. Sarasamma Amma died intestate on 24.03.2012 leaving behind the plaintiffs and the third defendant as the heirs. The plaint schedule property extending 6.27 Ares along with a building in Re Survey No. 152/25 in Meenadu Village belonged to the first defendant and the deceased Balachandran Pillai by virtue of settlement deed No. 761/1985 of Sub Registrar Office, Chathannoor. After the demise of Balachandran Pillai, the first defendant and Sarasamma Amma was in joint possession and enjoyment of the plaint schedule property. After the death of the said Sarasamma Amma, the plaintiffs and the third defendant have 1/4th share over the plaint schedule property. Though the first defendant agreed to partition the plaint schedule property to two equal shares, he did not turn up. After the demise of their mother, the plaintiffs approached the first defendant for partition and separate possession of the plaint schedule property, the first defendant did not accede to that demand. Moreover, the defendants 1 and 2 had fraudulently executed settlement deed No. 2240/2013 in respect of the plaint schedule property, for which they have

no right at all. Hence the settlement deed No. 2240/2013 has to be ignored and the plaint schedule property has to be partitioned by allotting 1/4th share to the plaintiffs and the third defendant. Hence the suit.

3. The defendants 1 and 2 filed written statement as follows:- The plaint schedule property belonged to the first defendant and the deceased Balachandran Pillai. But Balachandran Pillai was a cancer patient and the first defendant spent money for his treatment. Half of the property belonged to the first defendant and the late Balachandran Pillai was sold to pay off the debts incurred for treatment. Thereafter, the defendants 1 and 2 had constructed a house and they are residing therein. The plaint schedule was not in the joint possession as alleged by the plaintiffs. The late Balachandran Pillai had agreed to release his right over the plaint schedule property. But he died before executing a release deed in respect of the property. Neither the plaintiffs nor their mother had looked after Balachandran Pillai when he was under treatment. Thus the plaintiffs have no right to claim any share over the plaint schedule property. The first defendant was paying tax in respect of the plaint schedule property. Later, the plaint schedule property was settled in favour of the second defendant as per settlement deed No. 2240/2013. 2.40 Ares of property on the western side was sold by the first defendant along with his wife and the second defendant. The remaining property was

pledged in the Rural Co-operative Bank and availed a loan, for which the second plaintiff did not raise any objection. The plaint schedule property was in the absolute possession of the first defendant from 1985 onwards. Except the defendants 2 and 3, no other persons have any right over the plaint schedule property. Hence the suit is liable to be dismissed with cost.

4. Based on the pleadings, the following issues were settled for trial.

- (i) Whether settlement deed No. 2240/2013 of Chathannoor S.R.O is to be set aside, as prayed for?
- (ii) Whether the plaintiffs are entitled to get a decree for partition of the plaint schedule property and separate possession of 1/4th share among the plaintiffs and the third defendant?
- (iii) Reliefs and costs?

5. Later, IA.343/2019 was filed by the plaintiffs to transpose the third defendant as the additional 8th plaintiff. The said IA was allowed on 20.08.2019 and the third defendant was arrayed as the additional 8th plaintiff.

6. The suit was listed for trial on 01.12.2021. The defendants called absent and they were set ex parte. The second plaintiff was examined as PW1 on the side of the plaintiffs and marked Exts.A1 to A4.

7. Heard the learned counsel for the plaintiffs. The plaint averments are proved by the proof affidavit. In the absence of any contra evidence, I am of the view that the plaintiffs are entitled to get a decree as prayed for. Hence issue No.(i) and (ii) are found in favour of the plaintiffs.

In the result, suit is decreed in the following terms:

1. Settlement Deed 2240/2013 of S.R.O Chathannoor stands set aside. Issue Communication to the S.R.O and V.O concerned.
2. The plaintiffs are entitled for 1/4th share over the plaint schedule property.
3. The costs of the suit shall come out of the estate.
4. The plaintiffs can apply for passing of a final decree.
5. The suit is adjourned sine-die.

(Dictated to the Confdl. Asst. transcribed by her, corrected and pronounced in open court by me on this the 11th day of January, 2022.)

Sd/-
Radhika.S.Nair,
Munsiff-Magistrate.

APPENDIX:-

Witness for the Plaintiff:-

PW1 01.12.2021 - Sudheendran Pillai

Exhibits for the Plaintiff:-

A1	18.02.1985	-	Copy of Settlement deed No. 761/1985
A2	13.07.2016	-	Death Certificate of K.G.Balachandran
A3	30.10.2012	-	Death certificate of Sarasamma Amma
A4	02.07.2013	-	Attested copy of Settlement Seed No.2240/2013

Witness for the Defendant:-

- Nil

Exhibits for the Defendant:-

- Nil

Witness for the Court

- Nil

Exhibits for the Court

- Nil

//True copy//

Id/-
Munsiff-Magistrate,

Sd/-
Munsiff-Magistrate,
S.Paravoor

Typed by: Sheeja.J R
Compared by: