

IN THE COURT OF THE MUNSIFF OF KANNUR  
Present: Sri. Manikandan C.K, Additional Munsiff, Kannur  
Thursday, the 12<sup>th</sup> day of February, 2026 (23<sup>rd</sup> Magha, 1947)

**ORIGINAL SUIT No. 246/2023**

Kakkadi Radha, D/o Kunhambu, aged 61 years, Mattool  
amsom desom, Mattool North, Payyannur Taluk, Kannur  
District, PIN- 670503.  
Mob: 9497292923.

Plaintiff

Vs.

- 1 Alakkat Kamalam, W/o late K Raveendran, aged 60  
years, near Payyannur Government Hospital,  
Payyannur amsom, desom, Payyannur Taluk,  
Kannur District, 670307.
- 2 Alakkat Soumya, D/o late K Raveendran, aged 34  
years, near Payyannur Government Hospital,  
Payyannur amsom, desom, Payyannur Taluk,  
Kannur District, 670307.
- 3 Alakkat Swapna, D/o late K Raveendran, aged 32  
years, near Payyannur Government Hospital,  
Payyannur amsom, desom, Payyannur Taluk,  
Kannur District, 670307.

Defendants

This suit coming on the 4<sup>th</sup> day of February, 2026 for final hearing before me in the presence of Sri. K Sukumaran, Advocate for the plaintiff; and of S/Sri. Prajula M M and Anil Mathew, Advocates for the defendants; and having stood over for consideration to this day; the court delivered the following:-

**J U D G M E N T**

Suit for partition.

2. Gist of the plaint averments are as follows:- The case of the plaintiff is that the plaint schedule property originally belonged to Chembilingan Kunhambu. While so in possession, Kunhambu had executed a Will bearing No.22/1980 of SRO,

Pazhayangadi in favour of plaintiff, Jayakumar, Raveendran, Chandramathi, Vasantha, Sreeja and mother Kakkadi Madhavi. After the death of Kunhambu, the will came into effect and the right over the property described in the will devolved upon plaintiff, Jayakumar, Raveendran, Chandramathi, Vasantha, Sreeja and mother Kakkadi Madhavi. Thereafter, Kakkadi Madhavi died. After the death of Kakkadi Madhavi, the right over the property devolved upon her legal heirs, who are plaintiff, Jayakumar, Raveendran, Chandramathi, Vasantha and Sreeja. While so in joint possession, Chandramathi, Vasantha and Sreeja had released their right over the property to the plaintiff as per release deed bearing No.2234/2020 of SRO, Pazhayangadi and Jayakumar had released his right over the property to the plaintiff as per release deed bearing No.3431/2022 of SRO, Pazhayangadi. Further case of the plaintiff is that her brother Raveendran also died and thereafter, the right over the property of Raveendran devolved upon the defendants, who are the wife and children of Raveendran. Plaintiff several times requested the defendant to partition the property by metes and bounds but the defendants are delaying the same. So, on 23.05.2023, plaintiff issued a lawyer notice to the defendants to partition the plaintiff schedule property by metes and bounds and to allot her share separately. Defendants accepted the notice, but they neither send any reply nor partition the property. Hence, this suit is to partition the plaintiff schedule property into 6 equal shares and to allot 5/6 shares over the plaintiff schedule property to the plaintiff.

3. Defendant filed written statement by admitting plaintiff claim. The defendant submit that he has no objection in partitioning the plaintiff schedule property.

4. Heard.

5. Plaintiff was examined as PW1. Exts.A1 to A9 documents were marked.

6. The suit is one for partition. Defendants filed written statement by admitting the plaintiff claim and they have submitted that they are ready to partition the plaintiff schedule property, plaintiff schedule property is to be divided into 6 equal shares and defendants are entitled to get 1/6 share. As the parties claimed right over the plaintiff schedule property on the basis of the Will, this matter was listed to 12.09.2025, even though there was no dispute with regard to the execution of Will No.22/1980. When the case was in the list, learned counsel for the plaintiff submitted that no oral evidence for plaintiff. Thereafter, IA 3/2025 filed by the plaintiff to receive the witness list. The witnesses are the alleged attesting witnesses in the Will bearing No.22/1980. Thereafter, summons returned stating that witness No.1 died and witness No.2 not known. Thereafter, plaintiff himself filed proof affidavit before this court and examined as PW1 and Exts.A1 to A9 marked through him.

7. PW1 deposed that the plaintiff schedule property originally belonged to Kunhambu. While so in possession, Kunhambu had executed Ext.A3 Will bearing No.22/1980 in favour of plaintiff. After the death of Kunhambu, the will came into effect and the right over the property described in Ext.A3 will devolved upon plaintiff, Jayakumar, Raveendran, Chandramathi, Vasantha, Sreeja and mother Kakkadi Madhavi. Thereafter, Kakkadi Madhavi died. After the death of Kakkadi Madhavi, the right over the property devolved upon the legal heirs, who are plaintiff, Jayakumar, Raveendran, Chandramathi, Vasantha and Sreeja. PW1 further

deposed that while so in joint possession, Chandramathi, Vasantha and Sreeja had released their right over the property to the plaintiff as per Ext.A1 and Jayakumar had released his right over the property to the plaintiff as per Ext.A2 document. PW1 further deposed that her brother Raveendran also died and thereafter, the right over the property of Raveendran devolved upon the defendants, who are the wife and children of Raveendran.

8. PW1 further deposed that the signature in Ext.A3 Will is that of his father and same was executed by his father voluntarily. PW1 also deposed that though the summons issued to the attesting witnesses, the summons of one witness was returned stating that died and summons of other witness was returned stating that 'not known'. Learned counsel for the plaintiff vehemently argued that Ext.A3 Will not denied by the defendants in their written statement and therefore, it is to be admitted. Learned counsel for the plaintiff had relied upon a judgment of the Hon'ble Bombay High Court reported in **Kanwarjitsingh R.Chadha Vs. Sahebrao Gajanan Salvey and others (2013 Supreme Bombay 1199)**, it was held that "*the plaintiff had produced a Will and it was not denied by the defendants and, therefore, by relying on Order 8, Rule 5 of CPC, it held that there should be specific denial of the averments of the fact made in the plaint and in the absence thereof, it is to be admitted*". Learned counsel for the plaintiff further relied upon the judgment of the Hon'ble Supreme Court reported in **Metpalli Lasumvai and others Vs. Metpalli Muthaih and others (AIR 2025 (SC) 3413)**, it was held that "*Will is a registered*

*document and thus there is a presumption regarding genuineness thereof. The trial court accepted the execution of Will based on the evidence led before it. As the will is a registered document, the burden would be on the party who disputed its existence thereof.* The Hon'ble Apex Court further observed that the defendant admitted the signature as appearing on the registered will to be those of his father. In the present case on hand, there is no dispute with regard to the execution and attestation of Ext.A3 Will. On going through the records, it would go to show that the plaintiff and defendants are the co-owners in respect of the plaint schedule property. The plaintiff claims that she is entitled for 5/6 shares in the plaint schedule property. Hence, I am of the view that plaint schedule property is partible and the plaintiff is entitled for a decree as prayed for.

In the result, the suit is decreed and a preliminary decree is passed upon the following terms:-

1. The plaint schedule property be divided into 6 equal shares by metes and bounds.
2. Plaintiff is entitled to get 5/6 shares.
3. Defendants are together entitled to get 1/6 share.
4. The allotment of share to the defendants shall be subject to payment of court fee.
5. The question of equity, if any is relegated to the stage of final decree.
6. The costs of the suit shall come out of the estate.

7. The case is listed for taking steps under Order XX, Rule 18 of CPC to  
13.03.2026.

(Dictated to the Confidential Assistant, transcribed and typed by her,  
corrected and pronounced by me in open court, this the 12<sup>th</sup> day of February, 2026).

Sd/-  
ADDITIONAL MUNSIFF

**Plaintiff's Witness :-**

PW1- Smt. Kakkadi Radha, (With affidavit)

**Plaintiff's Exhibits:-**

A1	21.12.2020	Original document No.2234/2020 of SRO, Payangady.
A2	19.11.2022	Original document No.3431/2022 of SRO, Payangady.
A3	28.07.1980	Will executed by Sri.Chemblingan Kunhambu.
A4	15.10.2020	Death certificate of deceased Chemblingan Kunhambu.
A5	01.09.2022	Basic Lamd Tax receipt issued by Village Officer, Mattool.
A6	06.09.2022	Building Tax receipt issued by Mattool Grama Panchayath.
A7	23.05.2023	Copy of Lawyer Notice sent to defendants
A8	23.05.2023	Postal Receipt
A9	24.05.2023	Postal Acknowledgement Card.

**Defendant's Witnesses and Exhibits :-** Nil

Sd/-  
ADDITIONAL MUNSIFF

vka/-

Fair/ Spare copy of Judgment in  
OS No.246/2023, Dated: 12.02-2026.