

IN THE COURT OF THE MUNSIFF OF TALIPARAMBA

Present: Smt. Athulya A, Munsiff

Friday, the 13th day of March, 2026
(22nd day of Phalguna, 1947)

ORIGINAL SUIT No. 391 OF 2018

Kunnappallil Joe Abraham, aged 49 years,)
S/o Abraham K.A., Agricuturist, Santhigiri, Kooveri)
amsom desom, P.O.Kooveri, Taliparamba Taluk,) Plaintiff
Kannur District.)

Vs

1. Malikkantakath Manha Abdul Rahiman, aged 62)
years, S/o Abdulla, Business, Santhigiri, Kooveri)
amsom desom, P.O.Kooveri, Taliparamba Taluk,)
Kannur District.) Defendants
2. Kunnappallil Lucy, aged 73 years,)
W/o Late Abraham, No Job, Santhigiri, Kooveri)
amsom desom, P.O.Kooveri, Taliparamba Taluk,)
Kannur District.)

This suit coming on this day for hearing before me in the presence of S/Sri.V.K.Raveendran and K.K.Viswanathan, Advocates for the Plaintiff; of Sri.A.V.Sajith Kumar, Advocates for the defendant No.1; and of Sri.Martin Thomas, Advocate for defendant No.2; and the court delivered the following:

J U D G M E N T

The suit is for a permanent prohibitory injunction.

2. Plaint averments, briefly, are as follows:- Plaint A schedule property along with larger extent belonged to Jenm of Narekkottillam and in the possession of Oliyantakath Puthiya Purayil Aboobacker as per oral lease in the year 1960 on Kuzhikkanam right and he purchased jenm right as per purchase certificate No.325/1976 from Taliparamba Land Tribunal. Thereafter,

Aboobacker sold the property to Kunnappalli Lucy as per jenm assignment deed No.857/1977 of SRO. Taliparamba. Subsequently, she transferred 0.0777 hect0rs of property to Dr. Jame Abraham as per jenm assignment deed No.2574/2012 of SRO, Alakkode. Dr.Jame Abraham transferred the above property to his brother Joe Abraham, the plaintiff herein, as per gift deed No. 1668/2015 of SRO, Alakkode. Thereafter, the plaintiff is in absolute possession and enjoyment of the property after paying basic tax. The defendants have no manner of right over the plaint schedule property. The defendant No.2 is the mother of the plaintiff, who purchased the property as per document No.857/1977 of SRO Taliparamba and the total extent was one Acre. Through the western portion of the above one Acre property, there was a pathway about 3 feet width passing towards southern side. The said Lucy was executed an agreement dated 10.03.2006 in favour of Naduvile Veetil Lakshmanan, Scariya and Ayishabi in respect of 6.380 cents of property for the purpose of creating a road width about 1.7 to 3.5 meter on the western portion of her property near to pathway reserving her right to use and enjoy the road for her and her transferees and legal heirs. As per the agreement, the road was constructed and they were used the road for their ingress and egress to their property and house including the said Lucy. The said Lucy, who is the mother of the plaintiff, 2nd defendant herein, has executed the jenm assignment deed No.2574/2012 in favour of her son Jame Abraham by giving right to enjoy and use the above road and the road is shown as boundary. Thereafter, he transferred the above property to the plaintiff and the plaintiff used the above road for the ingress and egress to his property. The above road is starting from Govt. Ayurveda Dispensary Tar Road and leading to southern side abutting the plaintiff's property on the western side. The above road is shown as B schedule property in the plaint. The plaintiff and other residents are also using the above B schedule road. The plaintiff and his

predecessors were using the B schedule road as of right continuously, openly, peaceably and without obstruction. The plaintiff has got easement right over the B schedule property by grant. The Plaintiff has no other access to the A schedule property except the B schedule road. The plaintiff and others are using vehicles through the above road. On 21.10.2018 the 1st defendant tried to obstruct the use of vehicles through B schedule road by the Plaintiff. The defendants have no right to obstruct the use of the road by this plaintiff. The defendants are also using the B schedule road to their ingress and egress. The defendant No.1 and 2 colluded together and tried to obstruct the plaintiff. On enquiry, the plaintiff could understand that the defendant No.2 has executed a registered deed in favour of one Devadas, son in law of Scariya in respect of 6.380 cents of property which was the subject matter of agreement dated 10.03.2006. Lakshmanan, Ayishabi and Scariya were parties to the said agreement. The registered deed was executed without mentioning the agreement. That document will not affect the right of the plaintiff over the B schedule road. The above document is executed as a result of fraud and misrepresentation. Except defendants, no others have any objection in using the B schedule road by the plaintiff. The plaintiff apprehends that the defendants will obstruct the B schedule road at any time. Hence this suit is for permanent prohibitory injunction restraining the defendants and their men from obstructing the B schedule road or committing waste or any way interfering with the peaceful enjoyment of plaintiff B schedule road by the Plaintiff.

3. Despite making appearance by the 1st defendant, he did not file any written statement.

4. The suit is dismissed as not pressed against 2nd defendant.

5. The plaintiff himself was examined as PW1 and Exts. A1 to A3 and C1 and C2 were marked, where Ext.A3 is rejected as photocopy since no

foundations are laid down for admitting secondary evidence of the same.

6. Heard.

7. PW1 filed an affidavit in lieu of examination in chief by reiterating the contentions in the plaint. Ext.A1 is the Gift deed No. 1668/2015 of SRO, Alakkode executed in favour of the plaintiff and Ext.A2 is the tax receipt issued in favour of the plaintiff in respect of the plaint schedule property. The Advocate Commissioner has clearly identified the plaint schedule properties. The plaintiff is residing in the house situated in the plaint A schedule property. The Commissioner reported that on the western side of the plaint A schedule property, there exists a mud road starting from the Government Ayurveda Dispensary road and proceeding towards the south, which is the plaint B schedule property. The said B schedule road presently has a length of more than approximately 100 meters and a width of about 3.05 meters. Marks indicates that the vehicles have been passing through the road. On the western side of the plaint B schedule road, the residence of the first defendant is situated. The 1st defendant did not enter appearance or adduce any evidence to rebut the contention of the plaintiff. The evidence of PW1 and the report of the Advocate Commissioner are tallying. Hence, based on the oral testimony of PW1 and the proof as to possession, the suit can very well be decreed.

In the result, the suit is decreed as follows:

The 1st defendant and men under him are permanently restrained from obstructing the B schedule road or committing waste or any way interfering with the peaceful enjoyment of plaint B schedule road by the plaintiff. The 1st defendant is directed to pay costs.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court this on the 17th day of March, 2026.)

Sd/-
MUNSIFF

Plaintiffs Witness:

PW1 : Joy Abraham.

Plaintiff's Exhibits:-

A1 18.06.2015 Certified copy of gift deed No.166815 of SRO Alakode.

A2 16.08.2017 Basic Tax receipt issued by Village Officer, Kooveri.

A3 10.03.2006 Attested copy of the agreement. (rejected)

Court Exhibits:-

C1 11.02.2019 Commission report filed by Sheeba Valliyott, Advocate
Commissioner.

C2 11.02.2019 Plan submitted by Sheeba Valliyott, Advocate Commissioner.

**Sd/-
MUNSIFF**