

IN THE COURT OF THE MUNSIFF OF PAYYANNUR

Present: Smt.Greeshma.A.S, Munsiff, Payyannur

Tuesday, the 31st day of March, 2026

10th day of Chaithra, 1948

ORIGINAL SUIT No. 61 OF 2017

Seere Veetil Muhammed Shabeer, aged 31	]	
years, S/o Muhammed Kunhi, residing at	]	
‘Seere Veetil House’, Madayi Amsom Desom,	]	
PO Payangadi RS, Kannur District.	]	Plaintiff

Vs.

- | | | |
|--|---|------------|
| 1. Kolamkada Santha Kumari, aged about 65 |] | |
| years, Father’s name not known, residing at |] | |
| Cheruthazham Centre, Cheruthazham Amsom |] | |
| and Desom, PO Mandoor, Kannur District. |] | |
| 2. The Secretary, Khadi and Village Industries |] | |
| Board, Thiruvananthapuram. |] | |
| 3. Muthari Musaliyar Valappil Rasheed, aged 62 |] | |
| years, S/o Abdul Kareem, Residing near Peace |] | |
| English School, Pullanjinada, Ezhome |] | |
| Amsom, Eripuram Chenal Desom, Kannur |] | |
| District. |] | |
| 4. Chenicheri Aivalappil Kalliani Amma, aged |] | Defendants |
| about 65 years, Residing at Mandoor, Near |] | |
| Hanumarambalam, Cheruthazham Amsom |] | |
| Desom, PO Mandoor, Kannur District. |] | |
| 5. Aivalappil Naduvile Veetil Lakshmi Amma, |] | |
| aged 60 years, Fathers name not known, |] | |
| Residing at Mandoor, Near Hanumarambalam, |] | |
| Cheruthazham Amsom Desom, PO Mandoor, |] | |
| Kannur District. |] | |
| 6. Themanam Veetil Santhosh Kumar, |] | |
| S/o Govinda Marar, aged about 50 years, |] | |
| Residing at Mandoor, Near Hanumarambalam, |] | |
| Cheruthazham Amsom Desom, PO Mandoor, |] | |
| Kannur District. |] | |

7. Puthiyadath Nalini Amma, aged about 74 years, W/o Kunhiraman Nair, residing at Aduthila, Near Sastankot Temple, PO Aduthila, Madayi Amsom Desom, Kannur District. Defendants

This suit is coming on 30th day of March 2026 for final hearing before me in the presence of Sri.Pramod Udinookkaran, Advocate for the plaintiff; of S/Sri.Sajith Kumar S and Arya V, Advocates for 1st defendant; of Sri.P.V.Madhu, Advocate for 2nd defendant; Sri.P.P.Krishnan, Advocate for 6th defendant, reported no instruction; of Sri.K.Baburajan and Surendran P, Advocates for 7th defendant; 3rd to 6th defendants name called absent, set exparte and having stood over to this day for consideration and the Court delivered the following:

J U D G M E N T

Originally the suit was filed for fixation of boundary and injunction.

2. The averments in the plaint in brief are as follows:- The item No.1 of the plaint schedule property was previously in the jenm and possession of Kiliyara Murukkamcheri Govindan and others and as per the registered jenm sale deed No.516/1997 of SRO, Payangadi they assigned the same in favour of V.S Chandrika. Item No.2 of the plaint schedule property was previously in the jenm and possession of Pothera Kariyatt Kunhathayi Amma and others and as per registered jenm sale deed No.762/2001 of SRO, Payangadi they assigned the same in favour of the above said V.S Chandrika and as such Chandrika has got absolute jenm and possession of the properties. While so, as per registered jenm sale deed No.1149/2015 dated 17.04.2015 of Sro, Payangadi. Chandrika transferred the property in favour of the plaintiff and ever since the execution of the above document plaintiff has been in possession and enjoyment of the properties by remitting land tax to the

Government. Without any obstruction from any corner. Nobody other than the plaintiff has got any manner of right, title or possession over the said property.

3. The plaint schedule properties situate in R.S No. 386 of SRO, Cheruthazham amsom desom and in that particular survey sub division there are 8.01 acres of land. It is a barren rocky land and there is no boundary marks fixed in any of the property owners except southern side. The southern side property lies in R.S No.391 and to separate that property from the plaint schedule properties and others property there is a very old boundary wall constructed with boulder stones. The 1st defendant has got property in the immediate western side of plaint 2nd item property. The 2nd defendant Khadi Board has got 10 cents of property in the immediate northern side of plaint 2nd item of property. The southern side of the plaint schedule 1st and 2nd item of the properties are a private road laid by the predecessor of the plaintiff. And beyond the said private road there is a very old boundary wall stated above. The western side of plaint 1st item of property belongs to the property of the 3rd defendant and eastern boundary of the 1st item of plaint schedule property is in the possession of 4th defendant. Likewise northern boundary of plaint 1st item is in the possession of 5th defendant. There is no boundary wall or marks to separate the plaint schedule properties from the property of defendants No.1,2,3,4 and 5. Moreover, the 6th and 7th defendants are also having properties in that particular survey sub division and there is no demarcating boundaries to separate their properties from the neighbouring properties. So the entire sub division comprises in R.S No.386 is to be identified and to fix boundaries in accordance with their own documents. So, that they were arrayed as parties in this suit.

4. There is no demarcating boundary to separate the plaint schedule properties from the 1st and 3rd defendants tried to trespass into the western side of the plaint 1st and 2 properties and with an intention to grab apart of

the properties to their property, they attempted to fix a permanent boundary in the western side of the plaint schedule properties. Immediately on getting information plaintiff rushed to the spot and requested them to measure the property on the basis of their documents and village records and only after that to fix the boundary. But they have not become ready even to show their title deed or to measure the property. Instead they told that they themselves measured the property and they will construct the boundary wall at any cost and they retreated from the spot. The defendants have no right or possession over the plaint schedule properties or any part of it. So unless and until the plaint schedule properties as well as the properties of all the defendants are measured on the basis of the title deeds of the plaintiff and defendants and fix boundaries to separate the properties. The attempt of the No.1 and 3 are unauthorised and illegal which will result irreparable injury and loss to the plaintiff which cannot be compensated in term of money. So, it is highly necessary to demarcate the boundary of the properties on the basis of the title deed and to fix the boundary and to restrain the defendants No.1 and 3 from constructing boundary wall encroaching into the plaint schedule properties. The treat of defendant No.1 and 3 that they will construct a boundary wall by grabbing a portion from the plaint schedule properties are still subsisting. Hence the suit is filed for fixation of boundary and for consequential permanent prohibitory injunction.

5. Written statement filed by the 1st defendant are as follows:-

The suit is not maintainable either in law or on facts. The defendants denied all the contentions in the plaint. The 1st defendant has acquired right over the property by devolution of title obtained from deceased mother Kolenkada Veettil Meenakshi Amma, who acquired right over the property on the strength of registered document No.1440/1956 of SRO, Payangadi on kuzhikanam right. Thereafter, she had purchased jenm right over the property

from the Land Tribunal Payyanur and thus Meenakshi Amma has got absolute jenm right title and possession over the property in R.S No.386 of Cheruthazham village having an extent of 1.0320 hectares. Meenakshi Amma died intestate so naturally the right over the property was devolved upon her children Shanthakumari (defendant No.1) Padmavathi, Gopalakrishnan and Ramesan. While they were enjoying the property jointly as on the strength of registered release deed No.1384/2011 of District Registrar Thalassery. Padmavathi and Gopalakrishnan released their undivided right over the property in favour of Santhakumari and Ramesan. Subsequently as per registered release deed No.2704/2013 of SRO, Payangadi Ramesan also released his undivided right over the property in favour of Santha Kumari. Thus, the 1st defendant Santhakumari obtained absolute jenm right, title and possession over the property over 1.0320 hectares of property in R.S No.386 of Cheruthazham village. Even at the time of the execution of document No.1440/1956, the property has got clear boundary mark. Subsequently, iron fencing was provided on all four boundaries of the property. So, there is no necessity of constructing any boundary on any side of the property in the holding of the 1st defendant. This defendant is holding the property uninterruptedly and there was no boundary dispute over any side of the property.

6. The 1st defendant has no objection in fixing the boundary of the plaint schedule but for that purpose it is unnecessary and unwanted to blame the 1st defendant that she is attempting to trespass upon the western side of the plaint schedule property. 1st defendant is far away at Chennai and she is rarely visiting her property and there was no occasion for her to trespass upon the plaint schedule property or any property on any boundary of the defendant's property.

7. The suit is filed for fixing the boundaries of the plaint schedule

property. The plaintiff is not certain about his boundaries. The plaintiff has incorporated defendants No.1 to 7 saying that they are the boundary holders. The plaintiff is not certain where exactly the plaintiff schedule property is located. There was no attempt of trespass by the 1st defendant in any portion of the plaintiff schedule property. No boundary property of the defendant is touching the so called plaintiff schedule property. So, the prayer for seeking permanent prohibitory injunction against the 1st defendant from trespassing into the plaintiff schedule property or constructing the boundary by encroaching upon the plaintiff schedule property or in anyway interfering the peaceful possession and enjoyment of the plaintiff schedule property, is not maintainable.

8. Written statement filed by the 2nd defendant are as follows:-

The above suit is false, frivolous and not maintainable either in law or on facts. The defendant denies the entire averments in the plaint. The plaintiff schedule property cannot be identified from the averments and descriptions contained in the plaint. So the plaintiff has to take out a commission to identify the plaintiff schedule property on the basis of the village records and the document relied on by him and the defendant reserves his right to file detailed statement as and when the plaintiff schedule property is properly identified.

9. The defendant does not know about the documents referred to in the plaint on which the plaintiff claims right over the plaintiff schedule property. The plaintiff has to prove his title and possession over the plaintiff schedule property.

10. The total extent of property in R.S No.386 of Cheruthazham amsom, desom is 8.01 acres. There are physical boundaries for many of the holdings in that survey number.

11. The defendant No.2 Kerala Khadi and Village Industries Board, Thiruvananthapuram has got 10 cents of property in R.S No.386 of Cheruthazham amsom desom by virtue of the registered gift deed

No.493/1998 of SRO, Payangadi, which was executed by V.S Chandrika. The defendant has accepted the gift and took delivery of the said 10 cents of property and ever since the execution of the said gift deed, the defendant is enjoying and possessing the said property absolutely without any objection from any corner. After getting the property, the defendant absolutely without any objection from any corner. After getting the property, the defendant had fixed stones in four boundaries of the property. The defendant with the object to generating employment to the unemployed persons of the locality had formulated a project to start a cotton processing unit in the said project was delayed due to the lack of transportation facility to the said property. Since the property situates far away from the office of the defendant and its subordinate offices, the defendant could not go to the property regularly. After that the physical boundaries of some sides of the said property were seen removed by anti social elements. Yet there is visible mark in the boundary to separate the property of the plaintiff and the defendant. So at present, on boundaries of the property in possession of the defendant have no visible marks. So the defendant has no objection in measuring the properties and fixing the boundaries basing village records and the documents title.

12. Written statement filed by the 7th defendant are as follows:-

The suit is not maintainable either in law or on facts. There is no cause of action against the defendant as alleged in the plaint. There is no boundary or other dispute happened in between the plaintiff and the defendant in connection with the plaint schedule properties. Hence the defendant is an unnecessary party to the suit who deserves amply compensated for unnecessary implication in the suit.

13. The defendant has no direct knowledge in the matters shown in paragraph 3 and 4 of the plaint. There is no utterance in the plaint to show that in which side the property of the defendant situates of the plaint schedule

property how it is connected with the plaint schedule property.

14. This defendant has 3 Acres 27 $\frac{3}{4}$ cents of landed property in Cheruthazham amsom desom lies within R.S Nos.386, 387/1 and 387/2. The said property with other properties has been originally belonged to Puthiyedath Tharavad in which he is a member. The whole properties were partitioned as per the registered partition deed No.413 of 2004 or SRO, Payangadi, and the aforesaid 3 acres 27 $\frac{3}{4}$ cents was allotted to her in joint possession with Vasumathi, Sarada, Bhavani, Sadanandan, Mohanan, Vanaja, Manojkumar, Sajeewan and Rathnakumari. Thereafter the said property is jointly possessed by all of these members. They are not arrayed as parties in the above suit. Hence the suit is liable to be dismissed.

15. Heard both sides.

16. On the basis of the above pleadings the following issues were framed :-

1. Whether the plaint schedule property is identifiable?
2. Whether the plaintiff is entitled to get a decree of fixation of boundary as prayed for?
3. Whether the plaintiff is entitled to get a decree of permanent prohibitory injunction as prayed for?
4. What is the relief and costs?

17. No oral evidence of plaintiff and Exts.A1 and A2 and Ext.C1 and C2 were marked. Defendants did not adduce oral evidence. Ext.A1 is the document No.1149/2015, Ext.A2 is the tax receipt.

18. **Issue No.1 to 3:-** According to the plaintiff, the plaint schedule property was in the jenm and possession of Kiliyara Murukkamcheri Govindan and others. As per the registered jenm sale deed No.516/1997 of SRO, Payangadi it was assigned in favour of V.S Chandrika. The plaintiff has not produced that document before this court. In regard to the item No.2 of the

plaint schedule property, it was in the jenm and possession of Pothera Kariyatt Kunhathayi Amma and others. As per registered jenm sale deed No.762/2001 of SRO, Payangadi, it was also assigned in favour of V.S Chandrika. Thereafter, the above said V.S Chandrika as per jenm sale deed No.1149/2015 dated 07.04.2015 of SRO, Payangadi transferred the property in favour of the plaintiff. The above-mentioned document he is remitting land tax in the above property. To prove the same Ext.A2, tax receipt was produced and marked.

19. According to the plaintiff, the plaint schedule property which was situated in R.S No.386 of Cheruthazham amsom desom. According to the plaintiff, in that particular survey sub division there are existing 8.01 acres of land, which is a barren rocky land and there is no boundary wall fixed in any of the property owners except southern side. The southern side of the property lies in R.S No.391 and separate that property from the plaint schedule properties and others. There is an old boundary wall constructed with boulder stone. According to the plaintiff, the defendant No.1 has got the property in the immediate western side of item No.2 of the plaint schedule property. Defendant No.2 has got 10 cents of property in the immediate northern side of the item No.2 of the plaint schedule property. The southern side of the item No.1 and 2 of the plaint schedule property is laid by the predecessor of the plaintiff. Beyond the above said private road there is an old boundary wall as mentioned above. According to the plaintiff, the western side of item No.1 of the plaint schedule property belongs to the property of defendant No.3 and eastern boundary of the item No.1 of the plaint schedule property is in the possession of defendant No.4. The northern boundary of the plaint schedule property is in the possession of defendant No.5. According to the plaintiff there is no boundary wall or marks to separate the plaint schedule properties from the property of defendant No. 1 to 5. According to the

plaintiff, the defendants Nos 6 and 7 also have properties in that particular survey subdivision. And there is no boundary demarcating their property from the neighbouring properties. Thus, according to the plaintiff, the entire subdivision comprising R.S. No. 386 is to be identified, and the boundaries are to be determined in accordance with their own documents.

20. The cause of action for the suit that defendant Nos. 1 and 3 tried to trespass on the western side of the item No.1 and 2 of the plaint schedule properties with an intention to grab a part of the property for their property and attempted to fix a permanent boundary.

21. Plaintiff did not adduce any oral evidence and to prove their case and Ext.A1 and A2, Ext.C1 and C2 marked only from the side of the plaintiff. Ext.A1 is the title deed of the plaintiff. Perused Ext.A1 which is a registered sale deed executed in favour of the plaintiff by Chandrika. As per Ext.A1, the southern side is a private road. The item No.1 and 2, the southern boundary of the item No.1 is a road and item No.2 is the property of Khadi Board. According to the plaintiff, only southern side is having a boundary and no other boundaries of the plaint schedule properties are to be demarcated and fixed. For that purpose commission was taken and filed report which is marked as Ext.C1 and C2. As per Ext.C1 report, the commissioner has stated that the plaint schedule property is situated in R.S No.386 and it is a rocky land. According to the commission report, there is no boundaries to demarcate the plaint schedule property. The total extent of the plaint schedule property as per the commission report is 79.3 acres. The commissioner has reported that even though as per village record the total extent of the plaint schedule property is shown as 8.1 acres in R.S No.386. But when the commissioner measured the property the total extent of the property is 79.34 acres.

22. The advocate commissioner who visited the property prepared commission reports. Commission report dated 13.8.2025 was marked as

Ext.C1 and rough sketch was marked as Ext.C2. As per Ext.C1 the property of the defendants are shown as plot No 1, Plot No 2, Plot No 3, Plot No 4, Plot 6, 8 and 9. No encroachment seen stated by the commissioner.

23. As per Ext.C1 the boundary between property of the plaintiff (plot No 7 and plot No 5) and the defendant is identified and shown by the commissioner as item No 1 and item No 2.

24. The defendant Nos. 1, 3, 4, 5 and 6 were set ex-parte and defendant No. 2, 7 and 8 did not adduce any oral evidence and documentary evidence. The contention of plaintiff against defendant No. 1, 3, 4, 5 and 6 remains unchallenged as they were set ex-parte. As stated earlier defendant No. 2, 7 and 8 did not adduce any evidence. Also no objection is filed by the defendants to the commission report. On perusal of the evidence before the court, it can be seen that the boundary line sought to be fixed by the plaintiff is fixed through red colour line shown in Ext.C2 plan. No encroachment had been identified by the commissioner or the surveyor. Hence boundaries are fixed through red colour line shown in Ext.C2 plan. The eastern boundary of plot No. 7 is Chenicheri Ivalappil Lakshmi amma and others, on the northern side Ivalappukarude valapp, on the western side Abdul Rasheed, on the southern side road. Boundary of plot No. 5 east private road and property of Abdul Rasheed, northern boundary property of Abdul Rasheed, western boundary Kolangada Shanthakumari and Kolangada Rameshan, southern side property in possession of Khadi Board as per Ext.C1 report. The properties were measured out as per the village records. Hence I am of the opinion that the boundary line shall be fixed through red colour (mentioned as partition line by the Commissioner) as per Ext.C2 plan (mentioned as partition line by the Commissioner). Hence issue No. 1 is found accordingly.

25. **Issue No. 4:- In the result** the suit is decreed as follows:-

1) The boundary of the plaintiff schedule property is fixed through red

colour (mentioned as partition line by the Commissioner) as per the commission report. Ext.C1 shall form part of the decree.

2) Defendant No.1 and 3 restrained by way of permanent prohibitory injunction from trespassing into the plaintiff schedule property or constructing a boundary wall by encroaching into the plaintiff schedule properties or in any way interfering with the peaceful possession and enjoyment of the plaintiff schedule property after fixing boundaries.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this the 31st day of March 2026).

Sd/-
MUNSIFF.

Plaintiff's Exhibits:-

A1	17.04.2015	Janm Theerdeed
A2	31.10.2016	Basic Tax Receipt

Plaintiff's' Witness:- Nil

Court Exhibits:

C1	13.08.2025	Commission report submitted by Sri.Sandeep Kumar P.P., Advocate Commissioner.
C2	13.08.2025	Survey plan submitted by Sri.Sandeep Kumar P.P., Advocate Commissioner

Sd/-
MUNSIFF.