

IN THE COURT OF THE MUNSIFF OF PAYYANNUR

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

Tuesday, the 10th day of October, 202318th day of Aswina, 1945**ORIGINAL SUIT NO.218 OF 2021**

Sarang (Minor, Aged 10 years), Guardian	]	
Anil.K.V, S/o.Achuthan, Aged 44 years,	]	
Karuvacheri Kottila Veedu, Payyanur Amsom	]	Plaintiff
Desom, P.O.Payyanur, Payyanur Taluk,	]	
Kannur District-670307.	]	

Vs.

1. Moolakovval Sajitha, D/o.Narayani,	]	
No occupation, Aged 34 years, Vellur Amsom,	]	
Kandoth Desom, Pangadam, P.O.Kandoth,	]	
Payyanur Taluk, Kannur District - 670307.	]	Defendants
2. Moolakovval Narayani, D/o.Manikkam,	]	
aged 70 years, Vellur Amsom, Kandoth	]	
Desom, Pangadam, P.O.Kandoth,	]	
Payyanur Taluk, Kannur District - 670 307.	]	

This suit coming on this day for hearing before me in the presence of Sri.Shajimon.K, Advocate for the Plaintiff; and the Defendants name called absent, set exparte; and the Court passed the following:

ORDER

The suit is filed for partition of the plaint schedule property.

2. **The gist of averments in the plaint are as follows:-**

The plaint schedule property was in the possession of 2nd defendant who is the member of Ottu Tharavd as per the deed No.2954/1966 of SRO, Payyanur. The plaint schedule property was jointly owned

and possessed by the tharavadu members and the plaint schedule property was partitioned as per the partition deed No.1206/1990. As per the partition deed the plaint B schedule property is allotted to the 2nd defendant. 2Nd defendant transferred the property to the 1st defendant as per the registered jenm deed No. 2400/2019 of SRO, Payyanur. The plaint schedule property is not a self acquired property but it is a hereditary property as per Hindu Succession Act. So the right over the plaint schedule property is devolved upon the 1st defendant's son also. Accordingly, the plaintiff, who is the son of the first defendant, has $\frac{1}{2}$ share in the plaint schedule property. The property is in the joint possession of the plaintiff and the first defendant and the right to live in the house in the property belongs to the second defendant. There are several inconveniences when the property is in the joint possession as above. The 1st defendant left his husband and son. Now she is living with other person as husband and wife. The 2nd defendant attempted to transfer the property to third parties. 2nd defendant is also trying to make registration of documents regarding the property. The 2nd defendant does not have any right to allow others to enter the property and to cause damage to the plaint schedule property.

3. On 30.11.2021 the plaintiff approached the defendants and requested for partition of the plaint schedule properties for

allotment of his shares. In spite of demands, the defendants are not amenable for effecting partition. Hence the suit.

4. Defendant name called absent and set ex-parte.

5. Plaintiff claim stands proved by the affidavit filed by the plaintiff and through Exts.A1 to A3. Ext.A1 to A3 were marked. Ext.A1 is the certified copy of gift deed No.2400/2019 dated 06-08-2019, Ext.A2 is the FIR in Crime No.1081/2020 Ext.A3 is death certificate of D2. The oral evidence of PW1 and the documents produced by him remain unchallenged. As such, I find that the plaintiff has established its case and is entitled to a decree as prayed for.

In the result, suit is decreed by passing preliminary decree as follows :-

1. The plaintiff schedule properties are ordered to be divided into two equal shares and 1 such share is allotted to the plaintiff.
2. The cost of the suit shall be borne out of the estate.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this the 10th day of October 2023).

Sd/-
MUNSIFF

Plaintiff's Exhibits:-

A1	06-08-2019	Certified copy of Gift Deed No.2400/1/2019.
A2	17-11-2020	FIR in Crime No.1081/2020.
A3	07-07-2023	Death Certificate of Defendant No.2

Plaintiff's Witness:-

PW1	Anil.K.V
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Defendants' Exhibits and Witness: Nil.

Sd/-
MUNSIFF