

IN THE COURT OF THE MUNSIFF, CHANGANACHERRY

Present :- Smt. Jaiby Kuriakose, Munsiff

WEDNESDAY THE 13th DAY OF OCTOBER, 2021
21st ASWINA, 1943

O.S. No.360/2018

PLAINTIFF:-

Rajamma Vijayan,. aged 64 years, W/o. Vijayan,
Jeerakakunnel House, Ithithanam P.O.,
Kurichy Village, Changanacherry Taluk,
Pin 686104.

By Adv.P. Anilkumar

DEFENDANTS:-

1. Ratnamma Babu, aged 61 years, W/o.Babu,
Thenamplackal House, Punnathara West P.O.,
Punnathara West Village, Kottayam Taluk,
Kottayam District, Pin 686631.
2. Sobha Reghunath, aged 52 years,
W/o. Reghunath, Vadakkedathu House,
Purakkadavu Bhagom, Veroor P.O.,
Chethipuzha Village, Changanacherry Taluk,
Pin 686104.
3. Sambasivan, aged 50 years, S/o.Kuttappan Nair,
Kodinattukunnel House, Thrickodithanam P.O.,
Thrickodithanam Village, Changanacherry Taluk,
Pin 686105.
4. Kunjumol, aged 58 years, W/o.Gopikkuttan,
Koyithara House, Channanikkadu P.O.,
Channanikkadu Village, Kottayam District,
Pin 686533.

5. Jinil, aged 28 years, S/o.Gopikkuttan,
Koyithara House, Channanikkadu P.O.,
Channanikkadu Village, Kottayam District,
Pin 686533.
6. Vidya, aged 25 years, D/o.Gopikuttan,
Koyithara House, Channanikkadu P.O.,
Channanikkadu Village, Kottayam District,
Pin 686533.

D1 , D2 Exparte

D3 to D6 By Adv.K.MadhavanPillai

This suit having been finally heard on 13.10.2021 and the court on same day delivered the following:

J U D G M E N T

Suit is for partition and permanent prohibitory injunction.

2. Averments in the plaint in brief is as follows:-
Plaint schedule property is having an extent of 6 Ares comprised in resurvey No.295/6 in old survey No.95/14 of Thrikkodithanam village. This property belongs to Smt.Lekshmiyamma who is the mother of plaintiff and defendant Nos.1 to 3 and mother-in-law of fourth defendant and the grandmother of defendant Nos.5 and 6. Said property is situated within clear boundaries in all its four sides. Said Lekshmiyamma died on 07-12-2008 and her husband

Shri.Kuttappan died in the year 1968. There is no heirs for the plaint schedule property other than mentioned above. Plaint schedule property is in the joint possession of plaintiff and defendants. Plaintiff and defendant Nos.1 to 3 are entitled to 1/5 share each upon the plaint schedule property and defendant Nos.4 to 6 are entitled to 1/15 share each upon the same. In the above circumstances, plaintiff sought for partition of the plaint schedule property to the defendants, but defendants were not ready for the same. Hence this petition for partition and permanent prohibitory injunction restraining the defendants from making new construction upon the plaint schedule property.

3. Summons served on the defendants. Defendant Nos.1 and 2 heard exparte as they failed to file written statement. Defendant Nos.3 to 6 filed written statement contending the plaint claims. Suit listed for evidence. But on the list date, defendants remained absent. Accordingly, they were heard exparte.

4. Plaintiff has filed affidavit in lieu of examination in chief and Exts.A1 to A4, Ext.C1, C1(a) were marked.

5. Heard the Learned Counsel for the plaintiff. The only point that arise for consideration is, whether the plaintiff is entitled to the relief sought for ?

6. Plaintiff has filed affidavit in lieu of examination in chief which is in consonance with the averments in the plaint. From the uncontroverted testimony of plaintiff, Exts.A1 to A4 and Ext.C1, C1(a) documents, plaintiff has established her case warranting the grant of the relief sought for in the plaint. Point is answered accordingly.

In the result, the suit is decreed as follows:-

- 1) Plaintiff is allotted with 3/15 share upon the plaint schedule property and is entitled to obtain separate possession of her share by severing joint possession through the process of court.
- 2) Defendant Nos.1 to 3 are allotted with 3/15 share each over the plaint schedule property and are entitled to obtain separate possession of their share severing joint possession through the process of court.

- 3) Defendant Nos.4 to 6 are allotted with 1/15 share each over the plaint schedule property and are entitled to obtain separate possession of their share severing joint possession through the process of court.
- 4) Defendants are restrained from alienating the plaint schedule property or from pledging the plaint schedule property or from changing the lie and nature of the plaint schedule property or from making new constructions upon the plaint schedule property.
- 5) Costs of the suit shall come out of the estate.
- 6) Any of the sharers can file an application for passing a final decree.
- 7) Suit is adjourned sine die.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the Open Court on this the 13th day of October, 2021.)

Sd/-
JAIBY KURIAKOSE
MUNSIFF

APPENDIX:-**EXHIBITS MARKED FOR THE PLAINTIFF:-**

A1	03.07.2018	Death Certificate No.D0020188-0812203 of Lakshmiyamma issued from Register of birth and death, Changanacherry.
A2	06.08.2021	Tax receipt No KL05011006644/2021 issued from Thrickodithanam Village Office.
A3		Copy of Partition deed No. 5036/1952 of S.R.O., Changanacherry.
A4	20.05.1986	Copy of Partition deed No. 1279/1986 of S.R.O., Changanacherry.

EXHIBITS MARKED FOR THE DEFENDANTS:- Nil**COURT EXHIBITS:-**

C1	05.11.2018	Commission report prepared by Adv.K.P.Prasanath.
C1(a)	05.11.2018	Rough Sketch prepared by Adv.K.P.Prasanath.

WITNESSES EXAMINED FOR THE PLAINTIFF:-

PW1	13.10.2021	Rajamma Vijayan(Proof Affidavit)
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WITNESSES EXAMINED FOR THE DEFENDANTS:- Nil

Id/-
MUNSIFF

Typed by :
Compared by :

//True copy//

JAIBY KURIAKOSE
MUNSIFF