

IN THE COURT OF MUNSIFF - MAGISTRATE, PERINTHALMANNA

Present:Smt.Asha K.N., Munsiff-Magistrate.

Friday,the 27th day of March,2026

6th day of Chaithra, 1948

ORIGINAL SUIT No. 54/2025

Between:-

Children of Kannattil Ayyappan Ezhuthchan

1. Lakshmi Amma, 77 years, : Plaintiffs
 2. Narayanan kutty, 65 Years,
 3. Gopalakrishnan, 58 Years,
- (All are residing at
Elamkulam Amsom,
Kunnakav Desom, P.O,
Perinthalmanna Taluk).

And:-

Children of Kannattil Ayyappan Ezhuthchan

1. Krishnan Ezhuthchan, 78 years, : Defendants
 2. Parukutty, 72 years,
- (Both are residing at
Elamkulam Amsom,
Kunnakav Desom, P.O,
Perinthalmanna Taluk).

This Suit coming on 17th day of March, 2026 for final hearing before me in the presence of Sri.M.K.Sunil, Advocate for the plaintiffs and of Smt.K.P.Jamsheera, Advocates for the defendants and having stood over to this day for consideration, the court passed the following:

J U D G M E N T

Suit is for declaration and partition of plaint B schedule property.

2. **Plaint averments in brief are as follows:-** Plaint B schedule property belonged to father of plaintiffs and defendants, namely, Ayyappan Ezhuthachan who possessed the property till his death. After his death, legal heirs of Ayyappan Ezhuthachan including the plaintiffs, defendants and Ittipothi Ezhuthachan and others, have executed Partition Deed No. 199/1970 of Villayur SRO and A schedule of said deed was set apart to the share of Ittipothi Ezhuthachan. Since Ittipothi Ezhuthachan was went missing 68 years ago, he did not sign in the said partition deed. Plaint B schedule property is the A schedule of said partition deed which was set apart to the share of Ittipothi Ezhuthachan. The said Ittipothi Ezhuthachan went missing from 1964 and his whereabouts are not known to the relatives and friends since then. Therefore, he is presumed to be no more and the plaint B schedule property is to be partitioned among the parties to the suit. Plaintiffs and defendants each are entitled to 1/5 share in the plaint B schedule property. Even after several demands, the defendants are not ready for partition. At last, plaintiffs demanded partition on 18.01.2025, to which the defendants are not amenable. Someone had filed OS No. 88/2007 before Munsiff called Pattambi, claiming himself as Ittipothi Ezhuthachan. But, the suit was dismissed on finding that he could not prove his identity as Ittipothi Ezhuthachan. Ittipathi Ezhuthachan never came back and since 1964, there was no idea regarding whereabouts. Hence the suit is filed for declaring the civil death of Ittipothi Ezhuthachan and for partition of plaint B schedule property among the parties to the suit.

3. From the side of defendants, defendant No. 1 filed written statement admitting the plaint claim. Defendant No. 2 also appeared through counsel and endorsed the no written statement from the side of defendant No. 2. Since there was no denial of plaint avernments, no need to frame issues. Therefore, it was proceeded to take evidence in the suit.

4. From the side of plaintiffs, third plaintiff was examined as PW1 and two witness were examined as PW2 and 3. Exhibit A1 to 3 were marked. Exhibit A1 is the certified copy of partition deed No.199/1970. Exhibit A2 is the certified copies of judgment and decree in OS No. 88/2007.

5. Heard counsel for both sides.

6. There is no contra evidence or pleadings from the side of defendants. On perusal of Exhibit A1 partition deed, it is seen that Plaintiff B schedule property was the A schedule the Exhibit A1 deed, which was set apart to the share of one Ittipothi Ezhuthachan. PW1 deposed that he is the brother of Ittipothi Ezhuthachan who went missing more than 50 years. The whereabouts of Ittipothi Ezhuthachan are not known to relatives and friends and he is presumed to be no more. PW2 and 3, were also examined from the side of plaintiffs.

7. PWs 2 and 3 deposed that they knew the parties to the suit. The aforesaid Ittipothi Ezhuthachan was found missing long back and never came back. Even after making enquiry the whereabouts of Velayudhan are not known to the relatives and friends. Therefore, the evidence of PW2 and PW3 supported the evidence of PW1. The combined evidence of PW1 to 3 and Exhibit A1 proves the case of plaintiffs. Therefore, I am of the opinion that the plaintiffs are entitled to obtain a decree as prayed for. The plaintiff B schedule property shall be divided among the parties to the suit into 5 equal shares and shall be partitioned among the parties in accordance with the shares as stated in the plaint.

In the result, the suit is decreed and preliminary decree is passed as follows:

1. Ittipothi Ezhuthachan, son of Ayyappan Ezhuthachan, is presumed to be no more.
2. The plaintiff B schedule property shall be divided into 5 equal shares by metes and bounds.
3. Plaintiffs are entitled to get 1/5 share each and their share shall be separated.

4. Defendants are entitled to get 1/5 share each in the plaint B schedule property and their share also to be separated.
5. Any party who has remitted court fee can make application for passing final decree.
6. The cost of the suit shall come out of the estate.

(Dictated to the Confidential Assistant typed by her corrected and pronounced by me in Open Court this the 27th day of March, 2026)

Munsiff - Magistrate

APPENDIX :

Witness examined from the side of Plaintiffs :-

PW1	: 03.02.2026	: K.Gopalakrishnan.
PW2	: 03.02.2026	: K.Narayanan.
PW3	: 03.02.2026	: N.Narayanan.

Exhibits marked from the side of Plaintiffs :-

Ext.A1	: 15.05.1970	: Certified copy of Partition deed No.199/1970 of SRO Vilayur.
Ext.A2	: 30.11.2009	: Certified copy of Judgement in OS 88/2007 of the Munsiff Magistrate Court Pattambi.
Ext.A3	: 30.11.2009	: Certified copy of Decree in OS 88/2007 of the Munsiff Magistrate Court Pattambi

Witness examined and Exhibits marked from the side of Defendants :- Nil
Court Exhibits :- Nil

Munsiff – Magistrate

Typed by : Jaysree.K
 Compared by:1.Naseema C.M
 2. Jayasree.K

Fair Judgment
 in OS 54/2025
 Dated.27.03.2026