

IN THE COURT OF THE MUNSIFF OF PARAPPANANGADI
Present:- Smt. Aswani Nalin, LL.M., Munsiff

Thursday, the 25th day of January, 2024
the 5th day of Magha, 1945

ORIGINAL SUIT NO: 268 of 2015

Between:-

Rukhiya, 60 yers, W/o C.K.Unnimoyi, Kalathil House,
Rarorath amsom, Velimanna Desom, P.O.Velimanna
PIN 673 582, Ernad Taluk

Plaintiff

And:-

1. Moideenkutty, 60 years, S/o Kunhali Haji
2. Ahammed Saleem, 63 years, S/o Kunhali Haji
Areekkad House, Kannamangalam amsom desom,
Tirurangadi Taluk.
3. Parol Muhamood, 62 years, S/o Hussain,
Manihottathil House, Vazhakkad amsom, Cheruvayoor desom
P.O.Cheruvayoor, PIN 673 645, Eranad Taluk.

Supplemental

4. Cholakkara Balakrishnapanicker, 85 years, S/o Sankunni Nair,
Kalathil House, Kannamangalam West.P.O,PIN 676305,
Kannamangalam amsom desom, Tirurangadi Taluk.
 5. Alungal Abdul Gafoor, S/o Ayammu Haji, Alungal House,
Kannamangalam West.P.O, PIN 676305,
Kannamangalam amsom desom, Tirurangadi Taluk.
- (Supplemental 4th defendant is impleaded and amended as per
in IA 3/2022 and 4/2022 dated 07.06.2022
Supplemental 5th defendant is impleaded and amended as per
in IA 11/2022 and 12/2022 dated 11.11.2022)

Defendants

This suit is coming the 19th day January, 2024 for final hearing before me in the presence of Sri.V.Chandrasekharan and Sri.Vipin Chandrasekhar, Advocates for the plaintiff, Sri.K.P.Chandran, advocate for the 3rd defendant. Sri. C.P.Jamshid Rahman, Advocate for the defendants 1 and 2 , called absent, set exparte. Defendants 4 and 5 are also called absent, set exparte and having stood over this day for consideration and the court delivered the following:-

JUDGMENT

The suit is one for partition.

2. Plaintiff averments in brief is as follows;

The plaintiff while she was a minor obtained plaint B schedule property along with her siblings who is the 3rd defendant and Ilyas as per deed No.1902/1966 of SRO, Tirurangadi. It is known that subsequently Ilyas had transferred the property his 1/3rd share of property in favour of 1st and 2nd defendants. Now the plaintiff and defendant Nos.1 to 3 are co-sharers in plaint B schedule property. It is being managed by the 1st and 2nd defendants. The plaintiff had demanded partition several times to the defendant but they were not amenable to the request. Hence the suit.

3. Defendant Nos.1 to 3 entered appearance and filed written statement. D1 and 2 had filed written statement contending that the property is in possession of D4. Subsequently D4 was impleaded and D4 filed written statement contending that the share was transferred to D5. D5 was impleaded. But D5 remained absent. Hence set ex-parte. Opportunity for pre-trial steps were given and the matter was listed for trial to 5.1.2023. Though defendant Nos.1,2 and 4 entered appearance, when the matter was listed for trial, counsel for D1 and 2 was absent and there was no representation and hence D1 and D2 was set ex-parte. D4 sought time for cross examination and it was allowed on cost. But subsequently D4 reported no instruction. Hence D4 was set ex-parte. D3 is supporting the claim of plaintiff.

4. Plaintiff was examined as PW1. Ext.A1 was marked on the side of the plaintiff.

5. Heard.

6. By the unchallenged evidence of PW1 coupled with the documentary evidence, the case of the plaintiff stands proved. Thus the plaintiff is entitled to get a decree as prayed for.

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

1. Plaint schedule property shall be divided into three equal shares.
2. The plaintiff shall be entitled to 1/3 share.
3. Defendants 1 and 2 shall be entitled to 1/3 share and defendant No.3 shall be entitled to 1/3 share.
4. Cost shall come out of the estate.
5. Parties shall bear their respective costs.
6. Any of the parties are directed to take steps for passing a final decree within two months from today.

(Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court, this the 25th day of January , 2024)

Munsiff

APPENDIX:-

Witness examined for plaintiff:-

PW1- Rukhiya.P

Exhibits marked for Plaintiff:

A1-11.08.1966 Certified copy of Jenm Assignment deed No.1902/1966
SRO, Tirurangadi.

Witness examined for Defendants:- Nil

Exhibits marked for Defendants :- Nil

Court Exhibits- Nil

Munsiff