

IN THE COURT OF THE MUNSIFF OF OTTAPALAM

Present:- Sri.M.R. Dileep, Munsiff, Ottapalam

Friday, 10th day of April, 2026

20th day of Chaithra, 1948. S.E

ORIGINAL SUIT NO.323/2018.

Unnikuttan, aged 51 years, S/o. Late Kunjimalu Ammal, D/o. Late Raman Moothan, Chingath veettil, Mannambatta Amsom, Desom, Ottapalam Taluk, } Plaintiff
Now residing at 8/C1, NGO Courters, CN Puram, Palakkad, Pin-678005.

-Vs-

1. Ramakrishnagupthan, aged 68 years, S/o Late Raman moothan, Chingath veettil, Mannambatta Amsom, Desom, Ottapalam Taluk,
 2. Rugmini Ammal, aged 63 years, D/o. Late Kunjimalu Ammal, Chingath veettil, Mannambatta Amsom, Desom, Ottapalam Taluk
Now residing at W/o. M. Balakrishnan, Mamballi veedu, V.T.B College road, Mannambatta.P.O., PUNCHAPADAM.
 3. Radha, aged 60 years, D/o. Late Kunjimalu Ammal, Chingath veettil, Mannambatta Amsom, Desom, Ottapalam Taluk,
Presently residing at W/o. Appu gupthan, Chembanpadath veedu, Kadampazhipuram.P.O., Ottapalam Taluk.
 4. Vilasini, aged 57 years, D/o. Late Kunjimalu Ammal, Chingath veettil, Mannambatta Amsom, Desom, Ottapalam Taluk,
Presently residing at W/o. Ramakrishnan, Geethanjali lane, Near Ayyappankavu, Sreelakam veedu, Pirayiri.P.O., Palakkad Taluk.
 5. Haridasan, aged 48 years, S/o. Late Kunjimalu Ammal, Chingath veettil, Mannambatta Amsom, Desom, Ottapalam Taluk, Presently residing at Pothiyedath veedu, Kadampazhipuram.P.O., Ottapalam Taluk.
 6. Ratnavathy, aged 45 years, D/o. Late Kunjimalu Ammal, Chingath veettil, Mannambatta Amsom, Desom, Ottapalam Taluk,
Presently residing at W/o. Harisudhan, Chundekattil veedu, Sivankunnu, Mannarkkad.P.O., Mannarkkad Taluk.
- } Defendants

7. Kumari, aged 63 years, D/o. Late Thankamani Ammal, Chingath veettil, Mannambatta Amsom, Desom, Ottapalam Taluk, Presently residing at W/o. Late Chandran, Pangarathodi veedu, Kattukulam.P.O., Ottapalam Taluk
 8. Valsala, aged 53 years, D/o. Late Thankamani Ammal, Chingath veettil, Mannambatta Amsom, Desom, Ottapalam Taluk, Presently residing at W/o . Late Rajan, Thekkinkattil veedu, PUNCHAPADAM.P.O., Ottapalam Taluk.
 9. Thankamani, aged 48 years, D/o. Late Sarojini Ammal, Chingath veettil, Mannambatta Amsom, Desom, Ottapalam Taluk, Presently residing at W/o. Balan, Olappukalam veedu, Pallipuram.P.O., Palakkad Taluk.
 10. Radha, aged 43 years, D/o. Late Sarojini Ammal, Chingath veettil, Mannambatta Amsom, Desom, Ottapalam Taluk, Presently residing at W/o. Balasubrahmanian, Karimbanakkal veedu, Kunduvampadam.P.O., Kadampazhipuram via., Ottapalam Taluk.
- Supple:-
11. Rajeev, aged about 45 years, S/o. Ramakrishna Gupthan, Chingath Veedu, Mannambatta.P.O., Ottapalam Taluk. (Impleaded and amended as per Order in IA. 1967/21, IA.1968/2021 dated 04.12.2021.)

Defendants

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This suit coming on this day for final hearing before me in the presence of Sri. K.R. Kochunarayanan, Advocate for the plaintiff, and Sri. Nandagopal.P., Advocate for D1& D11, and D2 to D10 are not entered in appearance, and this court passed the following:-

JUDGMENT

This is a suit for partition.

2. The plaintiff's case, in brief, is as follows:-

The plaintiff is the grandson of Raman Moothan and Kunjukutty Ammal. The first defendant is the son of Raman Moothan and Kunjukutty Ammal. The plaintiff and defendant nos. 2 to 6 are the children of Raman Moothan and Kunjukutty Ammal's daughter Kunjimalu Ammal and defendant nos. 7 and 8 are the daughters of the plaintiff's maternal aunt Thankamani Ammal. Defendant nos. 9 and 10 are the daughters of the plaintiff's maternal aunt Sarojini Ammal. Raman Moothan, Kunjukutty Ammal, Kunjimalu Ammal, Thankamani Ammal and Sarojini Ammal have died.

3. The 1st, 2nd, 5th and 6th properties in the plaint B schedule were leased from Kazhikkandath Mana by the plaintiff's maternal grandmother Kunjukutty Ammal. On Kunjukutty Ammal's death, those properties devolved on Kunjimalu Ammal, Thankamani Ammal, Sarojini Ammal and Ramakrishna Gupthan (the first defendant). When Kunjimalu Ammal, Thankamani Ammal and Sarojini Ammal died, their interests in the properties devolved on their children. The 3rd and 4th properties in the plaint B schedule were allotted to Raman Moothan by partition deed no. 96/1934. Raman Moothan died on 14.2.1958 and the 3rd and 4th properties devolved on his wife and children. The first defendant is managing the properties on behalf of all the co-owners at present. He used to give the other parties their shares of the profits from the properties, but he recently claimed that he was the exclusive owner

of the properties and tried to sell them. Hence, this suit. The plaintiff has a one-twenty-fourth interest in the plaint B schedule property .

4. Defendant nos. 2 to 10 did not file written statements. The first defendant filed a written statement. His contentions are as follows :-

The statements in the plaint are false. The descriptions in the plaint B schedule are incorrect. Properties answering those descriptions do not exist. The plaintiff is the son of Kunjimalu Ammal and is claiming under her. Kunjimalu Ammal , Thankamani Ammal and defendant nos. 9 and 10 instituted a suit for partition in the Subordinate Judge's Court, Ottapalam in 1991 and it was numbered as O.S. 41/91. The Honourable Subordinate Judge's Court found that the first defendant herein is the exclusive owner of the properties involved in that suit and dismissed it on 12.12.1995. That judgment has attained finality. The 3rd, 4th , 5th and 6th properties in the plaint B schedule are the properties whose division was sought in O.S. 41/91. The plaintiff has altered the descriptions of the properties with a view to circumventing the decree in O.S. 41/91. Since the plaintiff is claiming under one of the plaintiffs in O.S. 41/91, the trial of the suit is barred by res judicata. The plaint in O.S. 41/91 erroneously said that the size of the first defendant's homestead was 4 acre 69 cents .

5. Before instituting this suit, the plaintiff had influenced the Village Officer into refusing to correct the errors in the revenue records. The first defendant has approached the Honourable High Court to get the errors in the revenue records corrected. The first defendant has assigned a part of his property to his son Rajeev. The suit is frivolous and vexatious and it should be dismissed with compensatory costs .

6. After the first defendant filed his statement, his son was added to the suit as defendant no.11. Defendant no.11 filed a written statement. His contentions are as follows :-

The plaint B schedule properties belonged to Raman Moothan. Raman Moothan died before the commencement of the Hindu Succession Act and his son Ramakrishna Gupthan inherited all his properties. The other parties have no right, title or interest in the properties left by Raman Moothan .The decree in O.S. 41/1991 has attained finality. The 11th defendant adopts the 1st defendant's pleadings.

7. The plaintiff initially claimed that only the 1st and 2nd properties in the plaint B schedule had belonged to Kunjukutty Ammal, but partway through the proceedings, he amended the plaint and claimed that the 1st , 2nd, 5th and 6th properties in the plaint B schedule had belonged to Kunjukutty Ammal .

8. After the plaintiff amended the plaint, the 1st and 11th defendants filed an additional written statement. They denied the plaintiff's claim that Kunjukutty Ammal had leased the plaint B schedule properties from the landowners.

9. The following issues were framed for trial:

- 1) Whether the suit is barred by res judicata?
- 2) Whether the plaint B schedule properties are partible, and if so, what are the shares of the parties ?
- 3) Whether the plaintiff is entitled to get a share of the future profits, and if so, what is the quantum ?
- 4) Relief and costs?

10. Defendant nos.2 to 10 did not participate in the trial of the case. The plaintiff was examined as PW1 and the documents submitted in evidence by him were marked as Exts.A1 to A5 . The documents submitted in evidence by the 1st and 11th defendants were marked as Exts.B1 to B4. The advocate commissioner's reports and plans were marked as Exts.C1 to C2(d).

11. Heard the plaintiff's counsel and the counsel for defendant nos.1 and 11.

12. **Issue nos.1 to 3:-** These issues are discussed together for convenience. The plaintiff was examined as PW1. He testified in tune with the contents of the plaint. Exts.B1 and B2 are certified copies of the decree and judgment in O.S. 41/1991. They show that the plaintiff's mother Kunjimalu Ammal was the first plaintiff in that suit. The advocate commissioner stated in Ext.C2 and the plaintiff admitted on cross-examination that the 3rd, 5th, and 6th properties in the plaint B schedule were the 2nd, 3rd and 4th properties in the decree schedule in O.S. 41/1991. ExtB2 shows that the Honourable Subordinate Judge's Court found in O.S. 41/1991 that the first defendant herein had acquired exclusive title to the properties by ouster and adverse possession. The judgment and decree in O.S. 41/1991 have attained finality, so the partibility of the properties involved in that suit cannot be re-litigated.

13. The description of the 4th property in the plaint B schedule is almost identical to the description of the 1st property in the decree schedule in O.S.41/1991. The only difference between the descriptions is the size. Originally there was no difference between the descriptions, but the plaintiff amended the description in the plaint B schedule after the commissioner reported that the size of the property was less than 2.5 acres. It is clear that the 4th property in the plaint B schedule is the 1st property in the

decree schedule in O.S. 41/1991. The commissioner has reported that the 1st and 2nd properties in the plaint B schedule are not different from the 4th property. The plaintiff has not challenged that finding. The property shown to the commissioner is in old survey number 86/12. According to the plaint, the 2nd and 4th properties in the plaint B schedule are in old survey number 86/12 and the 1st property is in old survey number 86/2. The plaintiff did not show the commissioner any property in old survey number 86/2. The plaintiff claims that his maternal grandmother Kunjukutty Ammal leased the 2nd property in the plaint B schedule from Kazhikkandath Mana. However, the only piece of evidence adduced by him to prove his grandmother's title to the property is a certified copy of the basic tax register (Ext.A3). According to Ext.A3, Kunjukutty Ammal was the registered holder of 11.3 ares of land in resurvey number 82/1. The old survey number of that property is 86/12. 86/12 is the old survey number of the 1st property in the decree schedule in O.S. 41/1991. There is no evidence that Kunjukutty Ammal had been the registered holder of the property in old survey number 86/12 before the resurvey. Ext.A1 is a certified copy of partition deed no. 96/1934. It shows that the property in old survey number 86/12 belonged to the plaintiff's grandfather Raman. Revenue records are not documents of title. Mutation in revenue records neither creates nor extinguishes title, nor does it have any presumptive value on title. All it does is entitle the person in whose favour mutation is done to pay the land revenue in question (*see Sawarni v. Inder Kaur and Others (1996 (6) SCC 223*). The commissioner's reports prove that the 1st and 2nd properties in the plaint B schedule are not different from the 4th property. I have already found that the 4th property in this suit is the first property in O.S.41/1991.

14. O.S.41/1991 was a suit for partition of the properties left by Raman Moothan. It is clear that the plaintiff falsely claimed that the plaint B schedule properties had belonged to his grandmother with a view to circumventing the decree in O.S.41/1991. He described the same property as three discrete lots (the 1st, 2nd and 4th properties in the plaint B schedule) with a view to capitalizing on an error in the revenue records. Ext.B4 is a certified copy of the judgment of the Honourable High Court of Kerala in WP (C) 34339/2018. It shows that the 1st defendant has managed to get the error in the revenue records corrected. The evidence shows that this suit is nothing but an attempt to circumvent the decree in O.S. 41/1991. The trial of the suit is barred by res judicata. A competent court found in 1995 that the 1st defendant was the exclusive owner of the properties and that judgment has attained finality. In view of the above findings, issue no.1 is answered in the affirmative and issue nos.2 and 3 are answered in the negative .

15. Issue no.4:- The answers to the foregoing issues show that the suit should be dismissed. Since defendant nos. 1 and 11 were unnecessarily taken to court, they shall be granted their costs in this proceeding.

In the result, the suit is dismissed. The plaintiff shall pay defendant nos. 1 and 11 their costs.

Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in the open court, on this, the 10th day of April, 2026.

Munsiff.

APPENDIX:Plaintiff's Witness Examined :

PW1 : Unnikuttan.

Plaintiff's Exhibits Marked :

- A1 : 19.01.1934 : Certified copy of partition deed no.96/1934 of SRO., Kadampazhipuram.
- A2 : 17.07.2018 : True copy of F.M.B. of filed no.82 issued by Village Officer Sreekrishnapuram-I Village.
- A3 : 17.07.2018 : True copy of B.T.R. issued by Village Officer Sreekrishnapuram-I Village.
- A4(a) : NIL : Certified true copy issued under 7(1) of RTI. Act 2005 of purchase certificate no.4090/1976.
- A4(b) : 15.09.1976 : Certified true copy issued under 7(1) of RTI. Act 2005 of order of OA. No. 6227/1976 on the file of the Additional Land Tribunal No.II Trichur.
- A5 : 17.04.2018 : Certified copy of application submitted before Village Officer Sreekrishnapuram by defendant no.1.

Defendants' Witness Examined :NIL.

Defendants' Exhibits Marked :

- B1 : 12.12.1995 : Certified copy of decree in OS.41/1991 on the file of Subordinate Court, Ottapalam.
- B2 : 12.12.1995 : Certified copy of judgment in OS.41/1991 on the file of Subordinate Court, Ottapalam.
- B3 : 19.10.2018 : Photocopy of petition in WP(c)34339/2018 in the Honourable High Court of Kerala.
- B4 : 12.12.2018 : Certified copy of judgment in WP(c)34339/2018 in the Honourable High Court of Kerala.

Court Witness Examined :NIL.

Court Exhibits Marked :

- C1 : 05.04.2019 : Commissioner's report submitted by Advocate
Commissioner Manjusha M.R.
- C1(a) : 05.04.2019 : Rough plan submitted by Advocate Commissioner
Manjusha M.R.
- C2 : 06.10.2025 : Commissioner's report submitted by Advocate
Commissioner Manjusha M.R.
- C2(a) : 06.10.2025 : Survey plan-I.
- C2(b) : 06.10.2025 : Survey plan-II.
- C2(c) : 06.10.2025 : Survey plan-III.
- C2(d) : 06.10.2025 : Survey plan-IV.

Munsiff.