IN THE COURT OF THE MUNSIFF OF CHITTUR

Present :- Smt.Shiny.M.S., Munsiff, Chittur
Tuesday the 31st day of March, 2026
10th day of Chaithra, 1948 S.E.

ORIGINAL SUIT No: 141/2015

Krishnakumari, aged 44 years, : Plaintiff
W/o.Balan, Pappanchalla,
Muthalamada Village, Chittur Taluk

Vs.

Madhavan, aged 60 years, : Defendant
S/o.Ponnan, Pappanchalla,
Muthalamada Village, Chittur Taluk

This suit is coming on this day for hearing before me in the presence of Sri.P.Govindanunni and Smt.Resmy Unni, Advocates for the plaintiff and of Sri.R.Manikandan and Smt.P.Vatsala, Advocate for the Defendant and the court delivered the following :-

J U D G M E N T

The suit is one for declaration and permanent prohibitory injunction.

2. The plaint averments in brief are as follows:- The plaint schedule properties was assigned to the plaintiff by her husband as per settlement deed No. 2508/1/2012 and thereafter she is in absolute ownership and possession of the property. On the south and east of the plaint schedule properties lies the property of the defendant. Defendant is brother of plaintiff's husband. There is no boundary to separate the plaint schedule properties and the defendant properties. Before the properties were assigned in the share of the plaintiff, there were number of civil cases between the

plaintiff's husband and the defendant. So they were in inimical terms. Due to this enmity and using their money power and political power without giving any lawful notice to the plaintiff, upon the properties lying on the southern and western side of the plaintiff's property in re-survey 215/1 and Block 20 of Muthalamada Village, they fraudulently created a sub-division in re-survey 215/5 and 6 and corrected the re-survey records. The plaintiff came to know about that only on 12.01.2015. The plaintiff made a complaint to the Village Officer and then they informed her that the complaint is to be made to the re-survey superintendent. The defendant is not having any right over the re-survey 215/1. Defendant by influencing the authorities had made such corrections and the S.I. had threatened her that if she obstruct the fencing on the southern and eastern side, case will be initiated against him. The defendant was the block president and panchayat member and so he is having money power and political power. If protection is not given there at any time they may trespass and put iron fence. Last occasion on 19.03.2015 the defendant came with men and tried to construct iron fence. As the plaintiffs and her men interfered, they returned. But while returned, they threatened that they would construct iron fence. Defendant has no right to do so. Hence this suit is filed to declare that the plaint schedule properties belong to the plaintiff as per the C schedule of Document No. 583/1969 included in Document No. 2508/2012 and for permanent prohibitory injunction restraining the defendants from cultivating the land. Hence the suit.

3. Defendant appeared and filed written statement. The contentions in the written statements in brief are as follows:- Defendant denies all the contentions. The

suit is not maintainable. Plaintiff is not entitled to any relief upon the plaint schedule properties. The averment that the plaint schedule properties are part of the properties assigned by her husband as per Document No. 2508/12 and there is no boundary to separate the plaintiff's properties and defendant's properties are all incorrect. The averment that the defendant corrected the survey records as per his wish by influencing the authorities are also incorrect. Actually the plaintiff or her husband was not having any right or possession over the plaint schedule properties. The plaint schedule properties are not allotted to the share of the Balan as per Document No. 553/69 as claimed by plaintiff. There was a suit between the plaintiffs and defendants as O.S.No. 230/95 and O.S.No.225/95 and the decision in that suit is binding upon the plaintiff and the Balan. So the suit is barred by resjudicata. After the decision in the above suit, Madhavan and the plaintiff jointly filed this suit to make a false and fraudulent document. Plaint schedule properties are set apart to the share of the defendant as B schedule in Document No. 583/1969 and he is in absolute possession and ownership of the defendant. The plaintiff and said Balan by colluding with the Village Authorities and Revenue Authorities has added the survey number in their tax receipts and this suit is filed. When the defendant came to know about these changes, he had made objection upon it and the revenue and survey authorities after conducting detailed enquiry had made corrections in the document. There is no cause of action for the suit. Intending to trespass into the Defendant's property, they have made a fraudulent document and by suppressing material facts, has filed a suit. The plaintiff has not approached the court with clean hands. There is no bonafides in the suit. The suit has to be dismissed.

4. Based on the above arguments, the following issues arose for consideration:-

(1) Whether the suit is barred by resjudicata?

(2) Whether the plaintiff is in exclusive possession of the plaint schedule properties as on the date of filing of the suit as claimed for?

(3) Whether the plaintiff is entitled to permanent prohibitory injunction as claimed for?

(4) Relief and costs?

<u>Additional issue</u>

(1) Whether the plaintiff is entitled to declaration as claimed for?

5. From the plaintiff's side, PW1 was examined and Exhibit A1 to A18 marked. From the defendant's side, DW1 was examined and Exhibit B1 to B3(a) marked. CW1 and CW2 and Exhibit C1, C1(a), C2, C2(a) were marked.

6. **<u>Issue No. 1 to 3 and additional issue No.1:-</u>** The plaintiff's husband gave evidence on behalf of the plaintiff stating that he knew the facts of the case. He filed proof affidavit by which he reiterated his averments in the plaint and stated that all the averments in the written statement are incorrect. In order to prove his case, he produced the certified copy of Document No. 583/1969 partition deed and also the original document of 2508/2012 executed by him in favour of plaintiff and also Exhibits A3, A10, A11, A12, A13, A14, A16 tax receipts. Ext.A10 and A16 are same tax receipt though shown differently in the list. Exhibits A4 and A9 are possession

certificates. Exhibit A5 is the BTR and FMB. A3 and A6 are BTR and FMB. Exhibit A1 is certified copy of Document No. 583/1969 and Exhibit A8 is the certified copy of Document No. 915/2004. C1, C1(a) is the commission report dated 30.03.2015 and C2, C2(a) is the commission report dated 17.09.2021.

7. Now from the defendant's side, the defendant is examined as DW1. He gave evidence in tune with his averments in the written statement. He further gave evidence that the commission report that is marked as C2 and C2(a) are incorrect. The 25 cents of property shown in the survey No. 215/5 belongs to him as per Document No. 583/69. The defendant's property lies adjacent to the properties shown as 35 cents in Survey No. 245/2. There is a motor shed in that property. Without showing that the commissioner had shown that the property on the western end belongs to the plaintiff. He has done so in order to help the plaintiff. The properties lying on the western end of the total properties in Re-survey 215/5 comprising 25 cents belongs to him and it is in his absolute possession and he is conducting cultivation there. The properties which were lying in separate fields, as nilam properties, is now coconut garden. But the ridge is still existing. The properties on the southern side of the plaintiff’s property, comprising 74 cents, is shown as the defendant’s properties. That is incorrect. The plaintiff is not entitled to get any declaration or injunction as claimed for. The suit has to be dismissed. In order to prove his contentions, he produced the Exhibit B1 is BTR, Exhibit B2 is FMB of Field No. 2, Survey 215. Exhibit B3 is the commission report in O.S.No. 225 /95 and Exhibit B3(a) is the sketch and plan.

8. CW1 deposed that he was the commissioner in the case and while he inspected, no notice was given to the defendant's wife. At the time of inspection, the defendant was not present. It is written in the report that the defendant also was there is incorrect. It is a mistake. The plaint schedule properties are shown as parambu properties. The document with respect to that properties were not inspected. When he inspected, it was coconut garden. Boundaries were also marked. On the western and the northern side, there is fence. On east and south, there is no fence. The portion shown in the rose colour is a well and in the orange colour is a motor shed. Property was lying as a square plot. The well was lying on the southern side of the plaint schedule properties. Motor shed's position is also shown. CW2 was also examined. He had produced three plan that is marked as Exhibit C2 series. Plan number 1 is the old survey number. As per old survey, plan number 2 is re-survey number. Along with the plan number 2, old resurvey is also clubbed. Plan C is with respect to Survey No. 113, 114 and 115. Resurvey is also shown in it. The property shown in the plan number 3 is not disputed property.

9. Arguments advance from both sides can be analysed in the light of evidence adduced. The learned counsel for plaintiff argued that the plaint schedule property belongs to her absolutely by virtue of settlement deed No. 2508/1/2012 and she is in possession and enjoyment of the same. It is also stated that their plaintiffs and defendants are siblings and their properties lie adjacent to each other and there is no proper demarcation between the properties and by taking advantage of his influence

he attempted to manipulate survey records and encroach upon plaint schedule property.

10. On the other hand, the learned counsel for defendant argued that the defendants denies the plaintiff's title and possession. According to him, the disputed property forms part of his share under partition deed No. 583/1969. It is also argued that earlier suit between them bar the present suit by resjudicata.

11. First and foremost point to be considered is whether the Plea of res judicata would apply in this case. The defendant relied on earlier suit O.S.225/1995. On perusal of Exhibit A17 and A18, it is seen that those suits were based on possession and not on title. Further in appeal, Both suits were dismissed. In order to attract the bar of resjudicata, the matter must have been directly and substantially in issue and finally decided. Since the earlier suits did not involve adjudication of title, the contention of resjudicata is unsustainable. So, Issue No. 4 is found in favour of the plaintiff. Now, Issue No. 1 to 3 can be considered together. Both parties traced their title to Exhibit A1 partition deed No. 583/1969. The validity of the said document is not in dispute. A reading of Exhibit A1 document would go to show that both parties were allotted properties in Survey No. 245/2. However, The allotments are distinguished from the Position and the description and the boundary recitals shown in the schedule. The plaintiff is allotted property at the extreme western end with kudipparambukal and it is shown as kudipparambukal on the western boundary. The main dispute is related to the 25 cents of property that is Item No. 6. The

commissioner has identified this property as forming part of plaintiff's holding on the ground that it lies as a single plot. The objection raised by the defendant is that it is already seen from the description, clear from the description that the plaintiff's property begins at the extreme western end. Therefore she cannot claim any property beyond that. It is true that Exhibit A1 does not contain precise boundary descriptions for each item and only general descriptions are provided. However, some aspects mentioned there are crucial. The plaintiff's property is specifically described as lying at the extreme western end with kudiparambukal as the western boundary. This clearly indicates that no property of the defendant lies further west of the plaintiff's allotment. If the defendant's contention is accepted, it would result in defendant's property lying west to the plaintiff's property. But it is contrary to the boundary recital in Exhibit A1. The defendant's allotment of 2 acres 28 cents in Survey No. 245/2 is not properly identified in the commissioner's report. The defendant claims the disputed portion as part of item No.2 of 'B' schedule he should prove that, the burden is upon him. He fails to prove that. Though the commissioner's report is not free from defects, Particularly in not properly identifying the entire extent of the defendant's property, it is relevant that the identification of the disputed 25 cents as part of plaintiff's property is consistent with the boundary recital in Exhibit A1. The plaintiff's properties are described with greater clarity and certainty whereas the defendant's allotment lacks clarity. It is clearly stated in description with respect to Item No.6 of 'C' schedule that to the west of Item No.5 lies Item No.6. It is true that Item No.8 is not lying very next to Item No.5. But the description of Item No.7

clearly matches with its lie as per commission report and its description in the schedule to Exhibit A1 document. The extent also very much matches with Item Nos. 4 to 7. Description, extent and boundary matches with the 'C' schedule of 1969 document Item No.4 to 7, though there is a minor confusion with respect to the description of 35 cents (Item No.5). The most relevant documents which would help to arrive at a decision as to the identity of properties is Exhibit A1 i.e. document No.583/1969 and Exhibits C2, C2(a). Item Nos. 4, 5, 6, 7 of 'C' schedule descriptions give indications of lie of property. These are identified by commissioner as separate plots especially the 13 cents which is item No.7. There is no dispute over that property. That property is shown south west of item No.6. It clearly indicates that Item No.6 lies north east of Item No.7. So I think this would clarify more precisely that disputed property item No.7 is within the 'C' schedule of Exhibit A1 deed allotted to plaintiff. If otherwise it is upon the defendant to adduce sufficient evidence that it is within 'B' schedule of Exhibit A1, which is not proved by him. In case of ambiguity, preference must be given to the boundaries and the descriptions given in the document. The Disputed 25 cents form part of the plaintiff’s share under Exhibit A1. The plaintiff claims possession over property and that is not specifically challenged. Since the plaintiff has established title and possession and there is threat of interference by the defendant, the plaintiff is entitled to permanent prohibitory injunction. Issues are found in favour of the plaintiff.

12. **Issue No. 4**:- In answer to the above issues, the plaintiff is entitled for the reliefs claimed in the suit. The plaintiff is also entitled to realize the costs of the suit from the defendant.

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

(1) It is declared that the plaint schedule property shown as 79 cents, 25 cents and 35 cents in blue colour in plan I in C2(a) plan belongs to the plaintiff.

(2) The defendant is restrained by a permanent prohibitory injunction from trespassing into or interfering with the plaintiff's possession and enjoyment of the plaint schedule property.

(3) The plaintiff is entitled to realize the costs of the suit from the defendant.

Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court on this the 31th day of March, 2026

Sd/-
Munsiff

Plaintiff's Witness Examined :

PW1 : Balan

Plaintiff's Exhibits :

A1	08.10.1969	:	Certified copy of Partition Deed No.583/1969 of SRO Kollengode.
A2	20-07-2012	:	Settlement deed No.2508/1/2012 of SRO Kollengode executed by Balan in favour of Krishnakumari
A3	26-04-2014	:	Basic tax receipt issued by Village Officer, Muthalamada No.1 Village in the name of Krishnakumari
A4	10-03-2015	:	Possession Certificate issued by Village Officer, Muthalamada No.1 Village in the name of Krishnakumari
A5		:	FMB (Filed No.215)
A6	12.08.2008	:	FMB (Filed No.215)
A7	08.10.1969	:	Certified copy of Partition Deed No.583/1969 of SRO Kollengode.
A8	21.04.2004	:	Certified copy of Verumbattam Assignment Deed No.915/2004 of

			SRO Kollengode.
A9	08.04.2013	:	Possession Certificate issued from Muthalamada Village Office in the name of Krishnakumari.
A10	26.07.2012	:	Basic Tax receipt issued from Muthalamada Village Office in the name of Krishnakumari. (Ext.A10 and A16 are same)
A11	08.04.2013	:	Basic Tax receipt issued from Muthalamada Village Office in the name of Krishnakumari.
A12	07.05.2015	:	Basic Tax receipt issued from Muthalamada Village Office in the name of Krishnakumari.
A13	07.11.2016	:	Basic Tax receipt issued from Muthalamada Village Office in the name of Krishnakumari.
A14	04.04.2018	:	Basic Tax receipt issued from Muthalamada Village Office in the name of Krishnakumari.
A15	19.08.2025	:	Electricity Bill issued from KSEB, Muthalamada.
A16	26.07.2012	:	Basic Tax receipt issued from Muthalamada Village Office in the name of Krishnakumari. (Ext.A10 and A16 are same)
A17	29.01.2005	:	Certified copy of Judgment in A.S.No.114/2001 and A.S.No.115/2001 of District Court, Palakkad.
A18	06.05.2017	:	Order No.H 2-2016/1967/9/200 & 2016/1085/200

Defendants Witness :

DW1 : Madhavan

Defendants Exhibits :

B1	11.06.2015	:	Basic Tax Register issued from Muthalamada Village Office.
B2	11.06.2015	:	F.M.B
B3	30.08.1999	:	Commission Report submitted by Advocate Commissioner K.Kumaran.
B3(a)	--	:	Rough Sketch submitted by Advocate Commissioner K.Kumaran

Court Witness Examined:

CW1 : Suranya

CW2 : Shanavas

Court Exhibits:

C1	30.03.2015	:	Commission Report submitted by Advocate Commissioner S.Suranya
C1(a)	30.03.2015	:	Rough Sketch submitted by Advocate Commissioner S.Suranya
C2	17-09-2021	:	Commission Report submitted by Advocate Commissioner K.Shanavas
C2(a)	17-09-2021	:	Survey plan submitted by Advocate Commissioner K.Shanavas

Sd/-
Munsiff

//True Copy//

Munsiff

Typed by : Dhanya.P.V
Compared by : Dhanalakshmi

Fair / Copy of Judgment in
O.S.No. 141/2015
Dated : 31.03.2026

-