

IN THE COURT OF THE MUNSIFF OF ALATHUR

Present:- Sri.Binu.P., Munsiff, Alathur

Friday 30th day of August, 2024
(08th day of Bhadra, 1946 S.E)

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ORIGINAL SUIT No.64/2024

Athira, aged 28 years, D/o Unnikrishnan, residing at
kambalakkode house, Naduvathappara, Peringottukurissi
Post, Alathur Taluk, Palakkad – 678 574.

} Plaintiff

Vs

1. Meenakshi, aged 49 years, W/o Unnikrishnan, residing at
kambalakkode house, Naduvathappara, Peringottukurissi
Post, Alathur Taluk, Palakkad – 678 574.

2. Adharsh, aged 21 years, S/o Unnikrishnan, residing at
kambalakkode house, Naduvathappara, Peringottukurissi
Post, Alathur Taluk, Palakkad – 678 574.

} Defendants

This suit is coming on this day for final hearing before me in the presence of Sri.C.Nandakumaran and Smt.V.Veeshma, Advocates for the plaintiff and defendants were called absent set exparte and this Court passed the following.

J U D G M E N T

Suit for partition.

2. Plaint allegations in short are as follows :-

Plaint schedule item Nos. 1 to 4 properties and plaintiff schedule item No.5 property belonged to Madhavi, grandmother of plaintiff and second defendant and first defendant's mother's younger sister by virtue of sale deed Nos.538/1965 and 2465/2008 of SRO., Parali respectively. Unnikrishnan, plaintiff's father and husband of the first defendant had taken care of said Madhavi and after the demise of Unnikrishnan, Madhavi was under the protection of plaintiff and defendants. During the life time Madhavi had executed a Will dated 21.08.2010 as regards the plaintiff schedule properties. On 11.04.2015 Madhavi died and the Will came into effect. As per the Will the properties devolved upon the plaintiff and the defendants jointly. First and second defendants are residing in the house extant in the plaintiff schedule properties and managing the same. Since the defendants are not sharing the profits from 2021 onwards, the plaintiff is not interested to continue the joint right and possession of the plaintiff schedule properties. Therefore, plaintiff demanded partition of the properties, but the defendants were not amenable for the same. Upon the plaintiff schedule properties, the plaintiff is entitled to get 1/3 share and the defendants 1 and 2 are entitled to get 1/3 share each. Hence the suit for partition of the plaintiff schedule properties into 3 equal shares and to get 1/3 share together to the plaintiff by separating joint right and possession.

3. Defendants 1 and 2 were called absent and set ex parte. The plaintiff was examined as PW1 and exhibits A1 to A4 were marked. To prove the Will one of the attesting witness was examined as PW2. Exhibit A1 is the original Will dated 21.08.2010. Exhibit A2 is the photocopy of gift deed No.538/1965 of SRO., Parali. Exhibit A3 is the original sale deed No.2465/2008 of SRO., Parali. Exhibit A4 is the photocopy of death certificate.

4. PW1 filed proof affidavit in support of her averments in the plaint. PW2 is an attesting witness to exhibit A1 Will. PW2 deposed that he, Madhavi and one Velayudhan had put their signature in the Will. PW2 identified exhibit A1 Will. The unquestioned testimony of PW1 in support of exhibits A1 to A4 and also examining PW2 the plaintiff prove her case that she is entitled to get the relief as prayed for.

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

- i. The plaint schedule properties are found to be partible,
- ii. The plaint schedule properties shall be divided into 3 equal shares,
- iii. Plaintiff is entitled to 1/3 share by separating right and possession over plaint schedule properties.
- iv. Defendants 1 and 2 are entitled to get 1/3 share each by separating right and possession over plaint schedule properties.
- v. Any of the parties, who shall deposit sufficient court-fee shall be entitled to apply for passing final decree.
- vi. The costs of the suit shall come out of the estate.

Dictated to Confidential Assistant transcribed and typed by him, corrected and pronounced by me in open court on this the 30th day of August, 2024.

Munsiff

APPENDIX:-Plaintiff's Witness Examined:-

PW1 : Athira.
 PW2 : Velayudhan.

Plaintiff's Exhibits Marked:-

A1 21.08.2010 : Unregistered Will executed by Madhavi.
 A2 20.05.1965 : Money settlement deed No.538/1965 of SRO.,
 Parali executed by Kunchu in name of Madhavi.
 A3 27.05.2008 : Assignment deed No. 2465/2008 of SRO.,
 Parali executed by Aneesh in name of Madhavi.
 A4 09.06.2015 : Death Certificate of Maadhu issued by
 Peringottukurissi, Grama Panchayath.

Defendants witness and Exhibit :- NIL

Court Witness and Exhibit :- NIL

Munsiff

Fair/Copy of Judgment
in O.S.64/2024
Dated : 30.08.2024