

IN THE COURT OF THE MUNSIFF, ADOOR

Present: Smt. Sherin Y. T, Munsiff.

Wednesday the 23rd day of July, 2025

1st day of Sravana, 1947 (S.E)

O.S. No.421/2017

Between:-

Rahul Vikraman Nair, aged 21 years, }
S/o. Vikrama Kurup, Room No. 209/A, }
2nd Floor, Mahavir Villa, Mahim Road, } Plaintiff
Opp. Sai Residence Hotel, Mahavir Nagar, }
Palghar West, Palghar West, }
Palghar District, Maharashtra State from }
"Changa Veedu", Aickadu Muri, }
Kodumon Village, Adoor Taluk, }
Pathanamthitta District. }

(By Adv. C.Prakash)

And:-

Reshma, aged 17 years, }
D/o. Vikramakurup, }
Siddhu Bhavanam, } Defendant
Poothamkara Muri, }
Enadimangalam Village, }
Adoor Taluk, Pathanamthitta District. From }
"Changa Veedu", }
Aickadu Muri, }
Kodumon Village, Adoor Taluk, }
Pathanamthitta District. }

The minor defendant is represented by her }
guardian grandmother Rohiniamma, }
aged 60 years, D/o. Meenakshiamma, }
residing at Sindhu Bhavanam, }
Poothamkara Muri, Enadimangalam Village, }
Adoor Taluk, Pathanamthitta District. }

(By Adv. Jose Varghese)

(Suit is restored as per order dated 25.03.2022 in IA 10/2022)

(Declared as major on 28.07.2018 as per order in IA 384/2019 dated 01.10.2019.

This suit having been finally heard on 19.07.2025 in the presence of Sri. C.Prakash, Advocate for the plaintiff and Sri. Jose Varghese Advocate for the defendant and having stood over for considered on 23.07.2025 the court delivered the following:

JUDGMENT

The suit is filed for partition of properties .

2. The Plaint averments, in brief, are as follows: The plaintiff and the defendant are siblings, children of late Vikramakurup and Sindhu. *Plaint Schedule Item No.1*, having an extent of 6.30 Ares in Re-Survey No. 482/9 in Block No. 22 of Kodumon Village, originally belonged to their father Vikramakurup as per Partition Deed No. 1408/1994 of Adoor SRO. Although Vikramakurup was not a party to the said deed due to his absence at the time, life interest in the property was reserved in favour of his mother, Janakiamma. *Plaint Schedule Item No.2*, having an extent of 2.70 Ares in Re-Survey No. 263/26 in Block No. 25 of Enadimangalam Village, belongs jointly to the plaintiff and his mother Sindhu by virtue of Settlement Deed No. 639/2004 of Enadimangalam SRO. The father, Vikramakurup, was residing in Mumbai with his family. On 27.12.2005, Sindhu, the mother of the plaintiff and the defendant, went missing from their flat in Mumbai. Despite extensive efforts and police complaints, her whereabouts have remained unknown for a continuous period of over 11 years and 11 months. Based on this prolonged absence, and in accordance with the relevant provisions of the Indian Evidence Act, it is presumed that she is no more. Vikramakurup died on 14.07.2014. His parents had predeceased him. With the death of Vikramakurup and the presumed demise of Sindhu, the plaintiff and the

defendant, being the only legal heirs, became entitled to the plaint schedule properties by way of intestate succession. The plaintiff, a degree student, is in need of funds for his higher education and attempted to amicably partition the properties. However, despite repeated requests, the defendant and her guardian grandmother did not cooperate, compelling the plaintiff to approach this Court for relief. The parties are Hindus and are governed by the Hindu Succession Act, 1956. As such, the plaintiff claims a $\frac{1}{2}$ share in *Plaint Schedule Item No.1* and a $\frac{3}{4}$ share in *Plaint Schedule Item No.2*, while the defendant holds the remaining $\frac{1}{2}$ and $\frac{1}{4}$ shares respectively. Both parties are in joint possession of the plaint schedule properties. Hence, the suit is filed seeking a preliminary decree of partition declaring the plaintiff's shares over plaint item Nos. 1 and 2 properties.

3. *The defendant filed a written statement, contending that the suit is not maintainable either in law or on facts. However, the relationship between the plaintiff and the defendant is admitted. It is also admitted that they are the children of late Vikramakurup, S/o Nanukurup. The fact that plaint schedule item No.1 property was allotted to their father as his share through Partition Deed No. 1408/1994 of Adoor SRO dated 12.05.1994 is not disputed. It is also admitted that the mother of the plaintiff and the defendant, Sindhu, has been missing since 27.12.2005 and that her whereabouts have not been known since then. The death of their father on 14.07.2014 is also admitted. The defendant stated that she is willing to effect partition but submitted that a declaration regarding the civil death of their mother should be made prior to such partition. The shares claimed by the plaintiff over the plaint schedule properties were also admitted by the defendant.*

4. Based on the above pleadings, the following issues were settled for consideration: -

1. *Is the plaint schedule property partible? If yes, what is the shares of parties?*

2. *Is the plaintiff entitled to get an injunction as prayed for?*

3. *Reliefs and costs?*

Addl issue No. 4 : *Is the plaint item No 2 property partible? If so, what are the shares to be allotted to the parties ?*

5. Heard.

6. On the side of the plaintiff PWs 1 and 2 were examined and marked Exts. A1 to A5 and Ext. A6 series. No evidence adduced on the side of the defendant.

7. **Issue No. 1 & Additional Issue No. 4:** The plaintiff is the brother of the defendant, and they are the children of late Vikramakurup. *Plaint Schedule Item No.1* property, having an extent of 6.30 Ares in Re-Survey No. 482/9-1, originally belonged to their father Vikramakurup, as per Partition Deed No. 1408/1994, mentioned in the 2nd Schedule therein. The plaintiff has stated in the plaint that Vikramakurup was not a party to the partition deed as he was away at the relevant time. The plaintiff produced Ext. A1, the certified copy of Partition Deed No. 1408/1994 dated 12/05/1994, executed by Janaki Amma, Sreedhara Kurup, and Saraswathi Amma. Though Vikramakurup was not a signatory to the deed, Ext. A1 clearly shows that *Plaint Schedule Item No.1* property was allotted to him, measuring 19 cents.

8. Ext. A2 is the land tax receipt dated 13/04/2012, which shows that land tax was paid for property having an extent of 6.30 Ares in Re-Survey No. 482/9-1, corresponding to *Plaint*

Schedule Item No.1.

9. The further case of the plaintiff is that his father, Vikramakurup, was working and residing in Mumbai along with his family. On 27/12/2005, Sindhu, the mother of the plaintiff and the defendant, went missing from their residence in Mumbai. Despite several enquiries and lodging of police complaints, her whereabouts have remained unknown for over 11 years and 11 months. Neither the plaintiff nor their relatives or friends have heard from her since that date. Accordingly, the plaintiff contends that Sindhu may be presumed to be dead, in accordance with the legal presumption under the Indian Evidence Act.

10. Plaintiff Schedule Item No.2 property, having an extent of 2.70 Ares in Re-Survey No. 263/26, belonged to Sindhu and the plaintiff by virtue of Settlement Deed No. 639/2004. The plaintiff produced Ext. A3, the certified copy of the said settlement deed, executed by Rohinikutti Amma in favour of Sindhu V. Nair and Rahul V. Nair (the plaintiff). Ext. A4, the land tax receipt dated 18/04/2024, shows that tax was paid jointly by Sindhu V. Nair and Rahul V. Nair for the said property.

11. The defendant, in her written statement, has admitted the entire case of the plaintiff. She accepted that her mother has been missing since 27/12/2005 and that no information has been received since then. She further admitted that *Plaint Schedule Item No.1* belonged to their father and that *Plaint Schedule Item No.2* jointly belonged to her mother and the plaintiff. The shares claimed by the plaintiff are not disputed.

12. The plaintiff examined PW2, an independent witness, who in her chief affidavit

affirmed that Sindhu has been missing since 27/12/2005 and no one has heard from her thereafter. There is no reason to disbelieve the uncontroverted testimony of PW2. The plaintiff also produced Ext. A6, a letter issued by Murbad Police Station, which confirms that a missing complaint was filed by the plaintiff regarding his mother Sindhu Vikraman Nair, who went missing on 27/12/2005. The letter also states that the plaintiff's father had earlier filed a complaint on 01/01/2006, which was registered as Missing Case No. 1/06. The document records that the missing person has not been traced to date.

13. The evidence of PWs 1 and 2, corroborated by Ext. A6, clearly establishes that Sindhu has been missing since 27/12/2005, and hence, it is safe to presume that she is no more.

14. The plaintiff claims a $\frac{1}{2}$ share in *Plaint Schedule Item No.1* and a $\frac{3}{4}$ share in *Plaint Schedule Item No.2*, with the defendant entitled to the remaining $\frac{1}{2}$ and $\frac{1}{4}$ shares respectively. Since these shares are admitted and there is no dispute between the parties, and as the plaint schedule properties are partible, these issues are found in favour of the plaintiff.

15. **Issue No. 2:** There is no prayer for permanent prohibitory injunction either in the plaint or in the chief affidavit filed by the plaintiff. Hence, this issue does not arise for consideration.

16. **Issue No. 3:** As the plaint schedule properties are partible and there is no dispute regarding the respective shares of the parties, the suit is liable to be decreed as prayed for. Considering the facts and circumstances of the case, both parties are directed to bear their

respective costs.

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

i) Plaint item No.1 schedule property shall be partitioned into two equal shares by metes and bounds, and the plaintiff allotted a $\frac{1}{2}$ share and the defendant allotted the remaining $\frac{1}{2}$ share. The defendant shall pay the necessary court fee for her separate share.

ii) Plaint item No.2 schedule property shall also be partitioned by metes and bounds, and the plaintiff allotted a $\frac{3}{4}$ share and the defendant allotted the remaining $\frac{1}{4}$ share. The defendant shall pay the necessary court fee for her separate share.

iii) The plaintiff is directed to take steps under Order XX Rule 18 of CPC for passing a final decree within 30 days.

iv) Considering the facts and circumstances of the case, I direct the parties to bear their respective cost.

Dictated to the Confidential Assistant, transcribed and typed by her corrected and pronounced by me in open Court on this the 23rd day of July, 2025.

Sd/-
SHERIN Y. T,
MUNSIFF.

Appendix

Exhibits marked for the Plaintiff:-

A1	12.05.1994	Certified copy of partition deed No. 1408/94 SRO Adoor executed by Janakiamma, Sreedhara Kurup and Saraswathi Amma.
A2	13.04.2012	Land Tax Receipt in Re-survey No 482/9-1 issued by Village Office Kodumon

- A3 15.05.2004 Certified copy of settlement ded No. 639/2004 executed by Rohinikutty Amma in favour of Sindhu V Nair and Rahul .V.Nair
- A4 18.04.2024 Land Tax Receipt in Re-survey No. 263/26 issued by Village Office Enadimangalam.
- A5 14.07.2014 Death certificate No. 114/2014 of Vikrama Kurup issued by Registrar of Birth and Death and secretary Kodumon Grama Panchayath.
- A6 25.01.2020 Letter No. Murbad Police Station 379/2020 issued to Rahul Vikrmam Nair
- A6(a) Copy of FIR of M Murbad Police Station

Exhibits marked for the Defendant:- Nil

Witness Examined for the Plaintiff :-

PW1 08.07.2025 Rahul Vikraman Nair.

PW21 11.07.2025 Bindhu.G.R

Witness Examined for the Defendant :- Nil

Id/-
MUNSIFF.

Typed by: Saji.K
Compared by:

Fair/Copy of Judgment in
O.S No.421/2017
Dated: 23.07.2025