

**IN THE COURT OF THE MUNSIFF, IRINJALAKUDA**  
**Present: Sri. Eldos Mathew., Principal Munsiff**  
**Wednesday, 3<sup>rd</sup> day of June 2026/13<sup>th</sup> Jyeshtha, 1948**

**O.S.No. 1023/2021 & O.S No. 315/2022**

**O.S.No. 1023/2021**

**Plaintiff:-**

Shaji, 56 years, S/o Moyilan Kunjippalu, Mulangu Desom,  
Thottippal Village and P.O, Mukundapuram Taluk.  
Pin- 680 310.

By Adv. C. K. Gopi

**Defendant:-**

Varghese, 51 years, S/o Moyilan Kunjippalu, Mulangu Desom,  
Thottippal Village and P.O, Mukundapuram Taluk.  
Pin- 680 310.

By Adv. P. S. Subeesh

**O.S No. 315/2022**

**Plaintiff:-**

Shaji, 57 years, S/o Moyilan Kunjippalu, Mulangu Desom,  
Thottippal Village, Mukundapuram Taluk.

By Adv. C. K. Gopi

**Defendants:-**

1. Kunjippalu, 85 years, S/o Moyilan Rappai, Mulangu Desom,  
Thottippal Village, Mukundapuram Taluk.
2. Thresia, 74 years, W/o Moyilan Kunjippalu, Mulangu Desom,  
Thottippal Village, Mukundapuram Taluk. (Died)

Addl.3.Varghese, 50 years, S/o Moyilan Kunjippalu, Mulangu Desom,  
Thottippal Village, Mukundapuram Taluk.

Addl.4. Francis, 59 years, S/o Moyilan Kunjippalu, Mulangu Desom, Thottippal Village, Mukundapuram Taluk.

Addl.5. Babu, 54 years, S/o Moyilan Kunjippalu, Mulangu Desom, Thottippal Village, Mukundapuram Taluk. Now residing at A11/402, Prakruthi Palms, GB Road, Azad Nagar, Brahmanand, West Tane, Sandozbaugh, Maharashtra. Pin-400 607.

Addl.6. Lovely Shaju, 46 years, D/o Moyilan Kunjippalu and W/o Puthanangadi Shaju, Kanakamala Village, Desom, Mukundapuram Taluk.  
(Impleaded as per order in IA 7/2022 dated 24.11.2023)  
D1,3, 4 and 6 By Adv. P. S. Subeesh  
D5 Exparte

These suits are coming on this day for hearing and the court delivered the following:-

### COMMON JUDGMENT

#### O.S.1023/2021

Suit for permanent prohibitory injunction.

2. Plaintiff's case:- The plaintiff, after completing his 10<sup>th</sup> standard education, went to Andhra Pradesh and carried on business there for a period of about eight years. Thereafter, he shifted to Mumbai, where he worked for approximately six years as a Turner in a lathe Workshop. Utilizing the income derived from the aforesaid business and employment, the plaintiff purchased the plaint A schedule property in the names of his parents, namely-Kunjippalu and Thressia.

Another property, procured in the names of his parents using the funds provided by the plaintiff, is described as plaint B schedule property. The plaint A and B schedule properties lie contiguously and are enclosed within clearly demarcated boundaries on all four sides.

3. Subsequently, the plaintiff returned from Mumbai and commenced residing in the plaint schedule properties, where he has been carrying on paddy cultivation. The plaintiff was also looking after his aged parents and had borne the expenses incurred for the surgery of his father at Thrissur Heart Hospital.

4. The defendant is the brother of the plaintiff. He had been employed abroad for several years. After returning to his native place, the defendant, by exercising undue influence and making misrepresentations, and with ulterior motives, has been attempting to secure transfer of the aforesaid properties in his favour. The father of the parties is presently aged about 85 years and is stated to be physically infirm and mentally unstable. The plaintiff has been in possession and enjoyment of the plaint schedule properties and has been conducting paddy cultivation therein for the last 20 years. His parents had consistently assured him that the properties would be

conveyed in his favour at an appropriate time.

5. While matters stood thus, on 11.11.2021, when the plaintiff was engaged in cultivation activities in the property, the defendant unlawfully interfered with the plaintiff's peaceful possession and cultivation and threatened him with dire consequences, thereby preventing him from continuing the agricultural operations. Hence, the plaintiff was constrained to approach this Court seeking a decree of permanent prohibitory injunction restraining the defendant from interfering with his peaceful possession and enjoyment of the plaintiff's schedule properties.

6. **Defendant's case:-** The defendant entered appearance and filed written statement contending inter alia that the averments contained in the plaint are false, incorrect and hence denied, except those specifically admitted herein. According to the defendant, the plaintiff's A and B schedule properties are presently in his exclusive possession and enjoyment, and the allegation that the plaintiff has been carrying on cultivation therein is specifically denied. It is contended that the plaintiff's A schedule property was settled in his favour by his parents by virtue of Settlement Deed No.1112/2022 dated 11.04.2022

of Nellore Sub Registrar Office. Likewise, the plaint B schedule property was also settled in his favour as per Settlement Deed No.1111/2022 dated 11.04.2022 of the said Sub Registrar Office. The aforesaid settlement deeds were executed by his father, Kunjippalu, and by virtue of the said documents, the defendant claims absolute ownership and possession over both the plaint schedule properties. Hence, according to the defendant, the suit is devoid of any merit and is liable to be dismissed.

7. After considering the rival contentions of both parties, my learned predecessor-in-office framed the following issues for trial:

1. Whether plaintiff is entitled to get a decree of permanent prohibitory injunction as prayed for?
2. What shall be the order as to costs?

### **O.S.315/2022**

8. Suit for declaration and permanent prohibitory injunction.

9. **Plaintiff's case:-** The present suit has been instituted by the very same plaintiff who had earlier filed O.S. No.1023/2021 against his brother, Varghese. In the present plaint also, the plaintiff has substantially reiterated the very same allegations and contentions

raised in the earlier suit. The plaintiff has further averred that, during the pendency of O.S. No.1023/2021, he had demanded defendants 1 and 2 to transfer the plaint schedule properties in his favour. But the defendants are not ready for that. At the same time, he apprehends that the said property may be assigned to his brother, Varghese, under their influence. Hence, the plaintiff seeks a declaration that the title deeds specifically described in the plaint schedule are null and void and not binding on him. The plaintiff has also sought a decree of permanent prohibitory injunction restraining the defendants from interfering with his alleged possession and enjoyment of the plaint schedule properties.

10. Subsequently, as per order in IA 4/2022 and IA 8/2022, plaintiff amended the suit when his mother, the 2<sup>nd</sup> defendant in the suit expired on 12.09.2022. The legal heirs are impleaded as additional defendants 3 to 6. The plaintiff also introduced paragraph No.6A by way of amendment and stated that the 1<sup>st</sup> defendant has assigned the property to his brother-Varghese (3<sup>rd</sup> defendant) by virtue of Deed No.1111/2022 of Nellayi SRO. In fact, there is no consideration for this document.

11. **Defendants' case:-** All defendants entered appearance and

filed a detailed written statement specifically denying the averments contained in the plaint paragraph-wise, except those expressly admitted therein. According to the defendants, the 1<sup>st</sup> defendant and his wife were agriculturists by occupation and, out of the income earned through their hard labour and agricultural activities, they acquired agriculture lands. It is further contended that, when they became advanced in age, they settled certain portions of their properties in favour of their four sons and retained some properties, specifically described as plaint A and B schedule properties, for meeting their future needs and expenses. Since the plaintiff had undertaken to maintain and look after his parents, 35 cents properties including house was transferred in favour of the plaintiff, reserving life interest in favour of the executants. However, after obtaining the properties, the plaintiff allegedly neglected and ill-treated his parents by denying them food and medicines and subjecting them to physical and mental cruelty. It is further alleged that the parents were eventually driven out from their ancestral house. Consequently, defendants 1 and 2 took shelter in the residence of the 3<sup>rd</sup> defendant, Varghese, who thereafter took care of them by providing proper food, medicines and other

necessities. Subsequently, defendants 1 and 2 approached the Maintenance Tribunal by filing appropriate proceedings against the plaintiff, which allegedly led to quarrels and disputes initiated by the plaintiff against the defendants herein.

12. The defendants further contended that, when the 1<sup>st</sup> defendant became old and physically incapable of personally attending to the agricultural operations, the plaintiff was merely entrusted with the work of cultivation and, in that capacity, he had received agricultural subsidies from the Krishi Bhavan. According to the defendants, the plaintiff had no independent income whatsoever to purchase any property in the name of his father and had never contributed any amount towards the acquisition of the plaint schedule properties. Hence, the plaintiff has no manner of right to seek a declaration that Deed Nos.3416/1985 and 3325/1986 are null and void.

13. It is further contended that the property obtained by the 1<sup>st</sup> defendant under Settlement Deed No.3325/1986 was thereafter validly assigned in favour of the 3<sup>rd</sup> defendant, Varghese, by virtue of Settlement Deed No.1111/2022 of Nellore Sub Registrar Office, and

consequently, the 3<sup>rd</sup> defendant has become the absolute owner in possession of the said property. Therefore, according to the defendants, the plaintiff is not entitled to any declaration that the aforesaid deeds are null and void.

14. After considering the rival contentions of both parties, my learned predecessor-in-office framed the following issues for trial:

1. Whether plaintiff is entitled to get a decree of cancellation of Document Nos.3416/1985, 3325/1986 of Nellayi SRO as null and void?
2. Whether plaintiff is entitled to get a decree of declaration as prayed for?
3. Whether plaintiff is entitled to get a decree of permanent prohibitory injunction as prayed for?
4. What shall be the order as to costs?

15. As per the order in I.A.8/2024 in O.S 1023/2021, joint trial of O.S 1023/201 and O.S 315/2022 was allowed. O.S 1023/2021 is considered as the leading case and evidence is adduced in that case. The parties in O.S 1023/2021 are referred to as plaintiff and defendant in this judgment.

16. The evidence consists of oral testimonies of PW1; DW1 & DW2 and documentary evidence of Exts.A1 to A3(a); B1 to B17 and

X1.

17. Heard both side.

18. **Issue Nos. 1-2 in O.S.No.1023/2021 and Issue Nos.1-4 in O.S.No.315/2022:-** Since the issues involved in both suits are interconnected and arise out of the same set of facts and evidence, Issue Nos.1 and 2 in O.S.No.1023/2021 and Issue Nos.1 to 4 in O.S.No.315/2022 are considered together for convenience and disposed of by this common discussion. The plaintiff instituted O.S.No.315/2022 against his parents, Kunjippalu and Thressia, seeking a declaration that Title Deed Nos.3325/1986 and 3416/1986, by virtue of which the plaint A and B schedule properties were obtained in their names, are null and void and not binding on him, and further seeking a declaration that the plaint schedule properties belong to him. Prior to the institution of the said suit, the plaintiff had filed O.S.No.1023/2021 against his brother, Varghese, seeking a decree of permanent prohibitory injunction. The Court is surprised to note that, according to the plaintiff, the alleged cause of action arose on 11.11.2021 and the suit was instituted on the very next day. This circumstance assumes significance in the light of Ext.X1 proceedings initiated earlier by the

plaintiff's parents before the Maintenance Tribunal alleging neglect and seeking cancellation of the settlement deed executed in favour of the plaintiff.

19. The records in Ext.X1 further disclose that defendants 1 and 2 had distributed substantial portions of their properties among their five children, while retaining the plaint A and B schedule properties for their livelihood and future needs. The plaintiff claims that the plaint schedule properties were purchased by his parents utilizing the funds allegedly earned by him during his employment in Mumbai and that the properties were acquired in the names of his parents on his behalf. However, there is no pleading to the effect that defendants 1 and 2 had purchased the properties as trustees for the plaintiff. Apart from the interested testimony of PW1, there is absolutely no convincing evidence regarding the plaintiff's alleged income, employment, source of funds, or contribution towards the acquisition of the properties. Exts.A1 and A2 are only copies of the title deeds sought to be declared null and void, and Ext.A3 is merely a photograph showing cultivation activities. No commission was taken out to identify the properties claimed by the plaintiff. Moreover, PW1 has categorically admitted that the plaint

schedule properties are not presently in his possession.

20. On the other hand, the defendants have produced Exts.B1 to B17 in support of the title and possession of the 3<sup>rd</sup> defendant over the plaintiff schedule properties. Admittedly, the properties were assigned in favour of the 3<sup>rd</sup> defendant by virtue of Exts.B1 and B2 settlement deeds. Thereafter, the properties were mutated in his name and land tax has been remitted by him, evidenced by Ext.B3 series. Exts.B7 and B8 would further show that the 3<sup>rd</sup> defendant had received agricultural subsidy in respect of the properties. Ext.B10 series and Exts.B15 and B16 are medical records and bills evidencing that the 3<sup>rd</sup> defendant had borne the medical expenses and taken care of the 2<sup>nd</sup> defendant during the years 2021-2022 till her death.

21. It is well settled that injunction is an equitable relief and a party seeking such relief must approach the Court with clean hands. The evidence on record would indicate that, despite having obtained substantial properties from his parents earlier, the plaintiff failed to maintain and look after them in their old age. The Exts.B10 series and Exts.B15 and B16 probalilise the case of the defendants that the plaintiff had failed to provide medical care or shelter to the deceased

2<sup>nd</sup> defendant despite the directions issued by the Maintenance Tribunal. PW1 has also admitted that the plaint schedule properties are not in his possession. It is true that, subsequent to the institution of O.S No.315/2022, the plaint schedule properties were transferred in favour of the 3<sup>rd</sup> defendant under Exts.B1 and B2 documents, which fact has also been admitted by DW1. However, in the absence of any specific relief sought challenging the said transactions, the validity of Exts.B1 and B2 does not arise for consideration in these proceedings.

22. In the above circumstances, this Court finds that the plaintiff has failed to establish any manner of right, title, possession or lawful claim over the plaint schedule properties. On the contrary, the evidence adduced by the defendants probalises their case regarding title, possession and transfer of the properties in favour of the 3<sup>rd</sup> defendant. The plaintiff, not being in possession of the properties and having failed to establish identity of the properties, is not entitled to the reliefs of declaration, cancellation of documents or permanent prohibitory injunction. Accordingly, all the issues are answered against the plaintiff.

In the result, O.S.No.1023/2021 is dismissed with costs. O.S No.

315/2022 is also dismissed with costs.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected by me and pronounced in open court on this the 3<sup>rd</sup> day of June, 2026)

Sd/-  
**Eldos Mathew,**  
**Principal Munsiff**

**APPENDIX:-**

**Plaintiffs Witness:-**

PW1 05.01.2026 Shaji

**Plaintiffs Exhibits:-**

A1 01.10.1985 Certified copy of Document no. 3416/1985

A2 25.09.1986 Certified copy of Document no. 3325/1986

A3 Photos

A3(a) Photos

**Defendants Witness:-**

DW1 21.01.2026 Varghese

DW2 05.02.2026 Murali Mohan R

**Defendants Exhibits:-**

B1 11.04.2022 Certified copy of Document no. 1111/2022

B2 11.04.2022 Certified copy of Document no. 1112/2022

B3 Series Tax receipts(5 Nos)

B4 27.06.2025 Tax receipt

B5 Application submitted before Suplyco

B6 02.10.2022 Receipt

B7 23.10.2023 Receipt

B8 15.10.2025 Receipt

B9	05.05.2025	Tax receipt
B9(a)	27.06.2025	Tax receipt
B10	Series	IP bill breakup details(11 Nos)
B11		Application submitted before Suplyco for the year 2024-25
B12		Application submitted before Suplyco for the year 2025-26
B13		Application form for Pradhan Mantri Fasal Bima Yojana
B14		Application form for Agricultural Information Management System
B15	Series	Medical Bills from Med Wagon Health Care Pvt. Ltd.(2Nos)
B16		Medical Bill from P.K. Das Institute of Medical Science.
B17		Medical Bill from I Vision Eye Hospital

**Other Exhibits:-**

X1		Copy of file submitted by Senior Superintendent Revenue Division Office, Irinjalakuda.
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Sd/-

**Principal Munsiff**

**//True copy//**

**Principal Munsiff**

Common Judgment in OS 1023/2021  
and OS 315/2022  
Dated. 03.06.2026