

IN THE COURT OF THE MUNSIFF ATTINGAL.
PRESENT: SMT. SOORYA S. SUKUMARAN, MUNSIFF.
FRIDAY 12th NOVEMBER 2021 / 21st KARTHIKA 1943
ORDER IN IA 06/2021 IN OS No. 304/2008

Petitioners/Plaintiffs:

- 1 Sunitha Vahid, W/o Abdul Vahid, residing at T.C. 49/116, Kamaleswaram, Manacaud, Thiruvananthapuram.
- 2 Amina Vahid, D/o Abdul Vahid, residing at T.C. 49/116, Kamaleswaram Manacaud, Thiruvananthapuram.
- 3 Akbar Vahid, S/o Abdul Vahid, residing at T.C. 49/116, Kamaleswaram, Manacaud, Thiruvananthapuram.

By Adv. K.S. Vinod

Counter petitioners/Defendants:-

- 1 Jameela Beevi, W/o Ebrahimkunju, residing at T.C. 49/116/2, Althandu Manzil, Kamaleswaram, Thiruvananthapuram.
- 2 Shekkeela Beevi, D/o Ebrahimkunju, residing at T.C. 49/116, Althandu Manzil, Kamaleswaram, Thiruvananthapuram.
- 3 Gladis, D/o Colastikka, Thaivilakom, Puthukkuruchi, Kadinamkulam Village, Thiruvananthapuram .
- 4 Terrens, S/o Edward, Edward square, Sarkara Village, Sarkara desom, Thiruvananthapuram.
- 5 Sebastian Perira, Jojil land, Puthukkuruchi, Kadinamkulam, Thiruvananthapuram
- 6 Abdu Nazar, S/o Thotikhas, Manakkattuvilakathu Veedu, Chittattumukku P.O, Kadinamkulam Village, Pillaveetumuri.
- 7 Ismayil, S/o Umarmunju Ravoothar, Darul Salam, Pallippuram Village.
- 8 Jaleel, S/o Meera Sahib, Darril Mubarak, Kalloor, Kabaradi Nagar, Thonnakkal Village, Thiruvananthapuram.
- 9 Sibi, W/o Abdul Nazar, Manakkattu Vilakathu Veedu, Chittattumukku P.O, Kadinamkulam village.
- 10 Aleema Beevi, W/o Ismayil residing at Darul Salam, Pallippuram Village.

By Adv. Sri. S.V. Athul

Sri. Vakkom R. Jayaprakash

This petition having been hearing on 26/10/2021 and the court on the 12/11/2021 passed the following.

ORDER

This is a petition filed by the 3rd plaintiff under order 6 Rule 17 CPC.

2. The petition averments in brief are as follows:

The plaintiff filed the suit is for partition. The plaintiff sought the correction of the description of the plaint schedule property. In the schedule description the property is described to be on the northern extremity of the entire 41 ½ cents excluding the southern 25 cents covered by a deed No.2/1995. Actually the property is situated on the southern side of the entire property. Hence this petition is filed.

3. The 8th defendant filed objection contending as follows:

The petition is not maintainable. The present petition is filed after 13 years of the suit. The plaintiff has not stated any reason for the delay in filing this petition. So he prayed for the dismissal of the petition.

4. Head both sides.

5. The suit is filed for partition of the plaint schedule property. Admittedly the plaint schedule property is a part of large extent of 41 cents belonged to the 1st defendant and her husband by virtue of deed No.2096/1991. While so they have executed a gift deed regarding the northern 25 cents to the 2nd defendant. The balance property having an extent of 16 cents on the southern side is the subject matter of the suit. But it is wrongly described as 16 cents on the northern side. It is submitted from the side of plaintiff that the mistake has been noted recently. There is no willful default or negligence on the part of plaintiff. There is no need to go into the truthfulness of the proposed amendment. Even if the proposal amendments are included in the plaint, the right of plaintiff over such land will be decided only after taking evidence. So even

through the petition is allowed, it will not cause any prejudice to the defendants. The trial has not been commenced in this case. So both parties will get opportunity to adduce evidence upon the matter. Further I am satisfied that the proposed amendments are necessitated to avoid the multiplicity of suits and for the fair disposal of the suit.

In the result, the petition is allowed.

Dictated to the Confidential Assistant, transcribed and typed by her corrected and pronounced by me in open Court on this the 12th day of November, 2021.

SOORYAS. SUKUMARAN,
MUNSIFF

Appendix: Nil

MUNSIFF

Typed by: Sofiya Beevi
Compared by: