

IN THE COURT OF THE MUNSIFF, VARKALA
PRESENT: Smt. RAJASREE C.R, B.A.L, L.L.M, MUNSIFF
MONDAY 28th JANUARY, 2019/8th MAGHAM, 1940.

OS.No.321/2015

Plaintiffs:

1. Mehrshad Nissam, aged 59, D/o Abusa Beevi,
New Vadakke veedu, Kappil desom, Edava village.
2. Ayshad, aged 54, D/o Abusa Beevi, of -do-

By Adv. Sri. M.Chandran

Defendants:-

1. Shamshad Beegum, aged 60, D/o Abusa Beevi,
Twinkle veedu, Edava desom.
2. Gulshad, aged 52, D/o Abusa Beevi,
Kappil desom, Edava village.
3. Shajirshad, aged 48, D/o Abusa Beevi,
Al-Arafa (New Vadakke veedu),
Edava desom, Edava village.
4. Havalshad, aged 45, D/o Abusa Beevi,
Rosappoovu veedu, of -do- -do-

Ex parte

This original suit is having been heard on 14.01.2019 and the court on the 28/01/2019 delivered the following:-

J U D G M E N T

Suit is for partition.

2. Plaintiff averments in brief are stated as follows:- The plaintiffs and the defendants are the heirs of the deceased Abusa Beevi. The plaintiff schedule property originally belonged to Mohammed Abdulla who executed a settlement deed 3685/1953 in respect of the said property in favour of his wife Salma Beevi, his daughter Abusa Beevi and his nephew Jamal Muhammed. Salma Beevi, the wife of Mohammed Abdulla, settled her 1/3rd right over the plaintiff schedule property in favour of the first and the second plaintiffs and the first and the second defendants as per settlement deed 3807/1965 of Varkala, SRO dated 02/05/1965. Subsequently, Jamal Muhammed also executed a settlement deed in respect of his 1/3rd right in favour of the first and the second plaintiffs and the first and the second defendants by virtue of settlement 3948/1965 dated 02/05/1965. The third and the fourth defendants were born after the execution of the aforesaid documents. After the demise of Salma Beevi, Jamal Muhammad and Asuma Beevi, the plaintiffs and the defendants being their sole heirs came in joint possession of the plaintiff schedule property. On 02/06/2015, the plaintiffs demanded for partition. However, the defendants were not ready for the same. Thus, this suit.

3. Summons to defendants 2 and 3 were duly served. As they failed to appear they were set ex parte. Summons to the fourth defendant was affixed and as she failed to appear she was set ex parte. Even though first defendant entered appearance, no written statement seen filed in time. Thus, the first defendant was also set ex parte.

4. On the side of the plaintiffs, the second plaintiff was examined as PW1 and Ext.A1 to Ext.A3 were marked.

5. Heard the counsel for the plaintiffs.

6. PW1 filed affidavit in lieu of her examination in chief reiterating the plaint averments. According to PW1, this suit was filed seeking partition of the plaint schedule property. Plaintiffs and the defendants 1 to 4 are siblings and the children of Abusa Beevi. The plaint schedule property was the self acquired property of Mohammed Abdulla. He has settled the said property in favour of his wife, Salma Beevi, his daughter of Abusa Beevi and his son in law of Jamal Muhammed, who was his nephew, by virtue of settlement deed 3685/1953 of Varkala, SRO. Salma Beevi executed a release deed in respect of her $1/3^{\text{rd}}$ right in favour of the first and the second plaintiffs and the first and the second defendants as per settlement deed 3807/1965. Jamal Muhammed had also executed a settlement deed 3948/1965 setting his $1/3^{\text{rd}}$ right over the property in favour of the children of Abusa Beevi, the plaintiffs and the first and second defendants. It has come in evidence that the third and the

fourth defendants were born subsequent to the execution of the documents. According to PW1, Abusa Beevi, Jamal Muhammed and Salma Beevi died and the plaintiffs and the defendants herein are in joint possession of the plaint schedule property. Even though plaintiffs demanded for partition, the defendants were not ready for the same. Plaintiffs have produced certified copy of the settlement deeds 3807/1965 and 3948/1965 marked as Ext.A1 and Ext.A2 to show that Salma Beevi and Jamal Muhammed settled their 1/3rd right over the plaint schedule properties in favour of the plaintiffs and the first and the second defendants. They have also produced the certified copy of the settlement deed 3685/1953 to corroborate the testimony of PW1 that the plaint schedule property was the property of Muhammed Abudulla who settled the same in favour of Abusa Beevi, Jamal Muhammed and Salma Beevi. Ext. A4 is the tax receipt pertaining to the property measuring 58.35 Ares comprised in re-survey 80/1-1 of Edava village. As per Muhammadan Law the male members shall get doubled the share than the females. Having considered the evidence on record, I am of the view the plaintiffs and the defendants 1 and 2 are entitled to get 19/90 shares each and the defendants 3 and 4 are entitled to get 7/90 shares each.

In the result, a preliminary decree is passed as follows:-

- a. Plaint schedule property shall be divided into 90 equal shares.
- b. First and the second plaintiffs are entitled to get 19 shares each.

c. Defendants 1 and 2 are entitled to get 19 such shares each.

Defendants 3 and 4 are entitled to get 7 such shares each.

d. Plaintiffs will put in possession of their separate shares.

e. Defendants will be put in separate possession of their shares on payment of requisite court fee.

f. Suit is adjourned sine die.

g. Costs shall come out of estate.

Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, this the 28th January, 2019.

Sd/-
RAJASREE. C.R,
MUNSIFF.

APPENDIX :

Exhibits for the Plaintiff:

A1	02/05/1965	Settlement Deed No.3807/1965 of SRO, Varkala.
A2	02/05/1965	Settlement Deed No.3948/1965 of SRO, Varkala.
A3	20/08/1953	Certified copy of Settlement Deed No.3685/1953 of SRO, Varkala.
A4	21/06/2018	Tax receipt No.0140321 of Edava village.

Witness for the Plaintiff:

PW1	30/05/2018 & 14/01/2019	Mehrshad Nissam.
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Id/-

//True copy//

MUNSIFF

Typed by : Vineetha

Compd. By :

MUNSIFF

JUDGMENT IN O.S.321/2015
DATED: 28-01-2019.