

IN THE COURT OF THE MUNSIFF, KOCHI

Present :-

Sri. Nishad Ibrahim., Principal Munsiff

Thursday, the 01st day of January, 2026/11th Pausha, 1947

O.S. No. 287/2020

Plaintiffs:-

1. Prasanth George, aged 39 years, S/o. Prince Felix, Karikkassery, r/at Yuletide House, Ernakulam.
2. Prince Felix Karikkassery, aged 75 years, S/o. Late George, r/at Karikkassery, Yuletide House, Ernakulam.

By Advs. K.S. Sathis Babu & Nimmi Joseph

Defendants:-

1. Raju, aged about 54 years, S/o. Ithappan, r/at Ooken House, behind Best Bakery, Valappu, Vypeen, Elamkunnappuzha.
2. Prasanth, aged about 60 years, S/o. Kochuvava, r/at Allaparambil House, behind Best Bakery, Valappu, Elamkunnappuzha, Vypeen.
3. Girija, W/o. Prakasan, r/at Allaparambil House, behind Best Bakery, Valappu, Elamkunnappuzha, Vypeen.

**D1 by Adv. P.P. Subhash Chandran
D1 to D3 - Exparte**

This suit come up for hearing on 06.12.2025 and the court 01.01.2026, delivered the following:-

J U D G M E N T

Suit is for recovery of possession, mandatory and permanent prohibitory injunctions and for future damages.

2. **The amended plaint summary :-** a) The plaint A schedule property comprises 83.666 Cents of land in Sy. Nos.1144, 1186, 1237/1, and 1237/2, Re-Sy. No. 420/9 of Elamkunnappuzha Village. Along with other properties having a total extent of 1 Acre 66 Cents, the said land was Pandaravaka Verrumpattom land possessed and enjoyed by Souriar Thomman, who also owned other landed properties. He obtained patta for the said properties as per the Pattayam No. 323 dated 27/12/1123 ME issued by the Diwan Peshkar of the Cochin State and thereby became the absolute owner in possession and enjoyment thereof. Souriar Thomman executed a registered Will dated 25/12/1945 (Document No.2/1123 ME, Narakkal Sub Registry), by which his properties were divided into A and B schedules. The plaint A schedule property forms part of the A schedule Item No. 2, allotted to his eldest son Thomman George. Souriar Thomman died in 1953 without modifying the Will, and thereafter Thomman George became the absolute owner in possession and enjoyment of the property.

b) There were five kudikidappukars in the said one Acre 66 cents, and a portion was acquired for the Vypeen–Pallippuram Road. After such allotment and acquisition, Thomman George retained one Acre 18.650 cents. He executed a registered Will dated 27/05/2000 (Document No. 143/III/2000, Kochi Sub Registry) and died on 08/05/2001 without cancelling or modifying the same. Upon his death,

the 1st plaintiff became the absolute owner in possession of 91.666 Cents in Sy. Nos. 1144, 1186, and 1237/1 and 2. After selling 7½ cents, the remaining property constitutes the plaint A schedule property. The 2nd plaintiff, being the father of the 1st plaintiff, manages the property and is therefore joined the 1st plaintiff.

c) The plaint A schedule property abuts the main road on the east. A compound wall exists on the southern side, and partial walls exist on the western side, constructed by neighbouring owners. There is no fence on the northern and eastern sides. There is no fence to separate it from the main road on the east. The predecessor of the defendant, Allaparambil Anjakalavan Kochuvava, was a kudikidappukaran under the plaintiff's predecessor. He obtained an order in OA No. 1364/1970 from the Land Tribunal, Vypeen, allotting 10 cents in Sy. No. 1144. After his death, his legal heirs continued in possession. The said land corresponds to Re-Sy. No. 420/10 and is shown as the plaint B schedule. The heirs later settled 2½ cents to their sister, who sold it to the 1st defendant, and the said property is shown as the plaint C schedule. The 1st defendant constructed a residential building and compound wall without setback, trespassing into plaint A schedule property, and later constructed a shed. The encroached portion of the plaint A schedule is shown as the plaint D schedule, and the structures therein as the plaint E schedule.

d) No pathway was provided to Kochuvava at the time of kudikidappu allotment. Taking advantage of the unfenced eastern side, the defendants used the plaint A schedule property for access. The plaintiffs are willing to provide a pathway of 1.20 metres width and about 20 metres length from the south-eastern portion of the plaint B schedule to the east, shown as the plaint F schedule. The southern neighbour demolished a portion of the compound wall and trespassed into the plaint A schedule property to facilitate vehicle access, for which OS No. 255/2020 is pending. Taking advantage of the plaintiff's absence, the 1st defendant further concreted a portion of the plaint A schedule property, shown as the plaint G schedule. The defendants have no right to construct or encroach upon the plaint A schedule property except for access through the plaint F schedule.

e) The plaintiffs are entitled to recovery of possession of plaint D schedule after demolition of the plaint E schedule, mandatory injunction to remove E and G schedule structures, demarcation of plaint F schedule pathway, and permanent prohibitory injunction restraining trespass or construction in the plaint A schedule property, except for ingress and egress through the plaint F schedule. In the above circumstances, the suit is instituted seeking a decrees for recovery of possession, mandatory and permanent injunctions, demarcation of the

pathway, and future damages at the rate of ₹2,500 (Rupees Two Thousand and Five Hundred only) per annum for illegal occupation of the plaint D schedule property.

3. Though summons were served on the defendants, they did not file written statement. Hence, they were set exparte.

4. The 2nd plaintiff filed proof affidavit and was examined as PW1 and Exts.A1 to A4 were marked. PWs 2 to 4 were also examined. The reports and sketches filed by the learned Advocate Commissioner were marked as Exts.C1 series and C2 series.

5. Heard.

6. The uncontroverted proof affidavit of PW1 along with the documents marked on the side of the plaintiffs and the evidence of PWs2 to 4 would entitle them to get a decree as prayed for in the plaint. No contra evidence was tendered. Though it was claimed in the plaint that the plaintiffs are entitled for future damages, no evidence was adduced in this regard. Hence the plaintiffs are entitled to get a decree as prayed for except with respect to the future damages.

In the result, the suit is decreed in part as follows:-

- i. The defendants are directed to hand over the possession of the plaint D schedule property to the plaintiffs after demolishing the

plaint E schedule property within 3 months from this date.

- ii. The 1st defendant is directed by way of a mandatory injunction to demolish the plaint E and G schedule properties within 3 months from this date.
- iii. The plaint F schedule pathway is set out as the plot D in Ext.C2(a).
- iv. The defendants are restrained by way of a perpetual injunction from trespassing into any portion of the plaint A schedule property except F schedule for the ingress and egress to the main road from the plaint B schedule property, from obstructing the plaintiff in enjoying the plaint A schedule property and from obstructing the plaintiff in making any construction especially fences/compound wall on the south-eastern side of the A schedule property except F schedule.
- v. Ext.C2(a) shall form part of the decree.
- vi. The defendants are jointly and severally directed to pay the costs of the suit to the plaintiff.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in Open Court on this the 1st day of January, 2026.

Sd/-
Nishad Ibrahim
Principal Munsiff

APPENDIX:-

<u>Plaintiff's Exhibits:-</u>		
A1	--	Certified copy of Patta No. 327.
A2	25.12.1945	Certified copy of Will No.2/1121 M.E.

A3	27.05.2000	Certified copy of Will.
A4	06.01.2018	Certified copy of death certificate of K.T. George.
<u>Defendant's Exhibits:-</u>		Nil
<u>Court's Exhibits:-</u>		
C1	18.11.2020	Commission report by Advocate Sreeni S.
C1(a)	18.11.2020	Rough sketch along with Ext C1.
C2	22.01.2025	Commission report by Advocate Syamon K.K.
C2(a)	22.01.2025	Survey sketch along with Ext C2.
<u>Witness's Exhibits:-</u>		Nil
<u>Plaintiff's Witness:-</u>		
PW1	17.06.2025	Prince Felix
PW2	28.06.2025	Sreeni S., Advocate Commissioner
PW3	21.07.2025	Syamon K.K., Advocate Commissioner
PW4	03.12.2025	Antonette Sanya Fernandez.
<u>Defendant's Witness:-</u>		Nil
<u>Court's Witness:-</u>		Nil

**Id/-
Principal Munsiff**

///True Copy///

Principal Munsiff

**JUDGMENT IN
O.S. No.287/2020
Dated : 01.01.2026**