

IN THE COURT OF THE SUBORDINATE JUDGE, KOZHIKODE

Present:- Smt.Leena Rasheed, Principal Sub Judge.

Saturday, the 22nd day of November, 2025.

Original Suit No.71/2025

Between:

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| <ol style="list-style-type: none"> 1. M.C Mohammed Jaleel, "Santhosh", S/o. Late M. Mylakkara Mohammed, aged 64 years, Puthiya Road, Peringadi Post, Kannur District, Kerala – 673312. Through power of Attorney holder Jasir Ahamed M.C, "Santhosh", Puthiya Road, Peringadi Post, Kannur District – 673312. 2. Jasir Ahamed M.C, "Santhosh", S/o. Late.M. Mylakkara Mohammed aged 62 years, Puthiya Road, Peringadi Post, Kannur District – 673312. 3. Sujatha Naziruddin, W/o.Nazirudden P, aged 60 years, West Ford, M.H Road, Payyambalam, Kannur, Kerala – 670001. | <div style="border-left: 1px solid black; padding-left: 10px;">Plaintiffs</div> |
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And:-

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| <ol style="list-style-type: none"> 1. M. Ashraf, S/o. Late Moideen Koya Haji, aged about 75 years, Laila Manzil, Perumunderi, New Mahi, Kannur District- 673311. 2. Mailakkara Nasar, S/o. Late Moideen Koya Haji, aged about 70 years, Laila Manzil, Perumunderi, New Mahi, Kannur District - 673311 | <div style="border-left: 1px solid black; padding-left: 10px;">Defendants</div> |
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This suit coming on 18th day of November,2025 for final hearing before me in the presence of Sri. Unnikrishnan Puthalath and Sri. Mohammed Rishal.S Advocates for Plaintiffs, Sri. Suryanarayanan Advocate for D2, and D1 called absent and set exparte and having stood over to this day for consideration and the court passed the following.

JUDGMENT

The suit is for partition.

2. The case of the plaintiffs, in short, are as follows :-

The plaint schedule property originally belonged to Moideen Koya Haji, the father of defendants as well as the ancestor of plaintiffs. Later, Moideen Koya Haji

gifted the property to plaintiffs' parents along with defendant No.1 and 2. On the death of the parents of plaintiffs, their half right over the property devolved upon the plaintiffs. Thus plaintiffs have half share over the plaint schedule property along with defendants. The plaintiffs commenced a business of aqua culture in plaint schedule property and intimated the same to defendants. Thereafter, a company named 'Royal Aqua Farm Pvt. Ltd' was formed for cultivation of fish, crab and prawns in the property, for which the plaintiffs No.1 and 2 had invested about ₹40,00,000/- Rupees forty lakhs only) for the construction of fish farm and other allied things and also obtained license from Central Ministry. Since, the defendants were also owners of the plaint schedule property, they were made directors without any investment. Due to the non-co-operation of defendants, the business could not be continued. Hence, the plaintiff requested the defendants for the partition of property by metes and bounds and measured the property and prepared a plan. Since, the plaintiff had spent huge amount for the business, the fish farm situated is to be set apart to their share. The plaintiffs also requested the defendants to widen the drainage into 5 meters and thodu and passage to 3 meters width around the entire plot for the common interest of all and also to comply with the local rules and regulations. The request to partition have been prolonging by the defendants under some pretext or other. Hence, they filed the suit for partition.

3. On summons, the first defendant failed to enter appearance, hence, he was set ex-parte. The second defendant entered appearance and filed written statement admitting the plaint claim. He also remitted court fee so as to allot his

share.

4. Based on the pleadings, the issues framed for trial are?

1. Whether plaintiff is entitled for equities with respect to the plot in which the fish farm is situated?
2. What are the shares, to which, each parties are entitled to in the event of partition?
3. Reliefs and Costs?

5. On the side of plaintiff, PW1 was examined and Exhibits A1 to A7 were marked. No evidence was adduced on the side of defendants.

6. Heard both sides.

7. **Issue No.1 to 3:-**

A close pouring over the pleadings and evidence available on record would go to show that the partibility of the property is not in dispute. The second defendant admitted the plaint claim and the first defendant was set ex-parte. The quantum of share is also not disputed. The only thing is that the plaintiff claimed reservation of the fish bund, for which, there is no dispute from the side of second defendant, who admitted the entire plaint claim. Hence, I am of the view that the suit can be decreed and the equity shall be worked out in the final decree proceedings. Being a suit for partition, the costs of the suit shall come out of estate.

In the result,

The suit is decreed and a preliminary decree is passed as follows:-

- i. The plaint schedule property shall be divided into 4 equal shares by

metes and bounds.

- ii. The plaintiffs are jointly entitled to two shares.
- iii. The defendant No.1 and 2 are found entitled to one such share each.
- iv. As far as possible the portion in which the fish bund is situated may be allotted to the share of plaintiffs.
- v. Equities if any shall be worked out in final decree proceedings.
- vi. Allotment of share to first defendant shall be subject to payment of court fee.
- vii. The parties are directed to bear their respective costs.
- viii. Suit stand adjourned to 29-11-2025, for taking the necessary steps under Order 20 Rule 18 C.P.C.

(Dictated to the Confidential Asst., typed by her, corrected and pronounced by me in the open court, this the 22nd day of November, 2025).

sd/-

Principal Sub Judge.

Plaintiff's Witnesses:-

PW1 : 18.11.2025 - Jasir Ahammed M.C, S/o. Muhammed.

Plaintiff's Exhibits:-

Ext. A1 : 12.03.1970 - Gift deed No. 295/1970 in West Hill SRO

Ext. A2 : 19.09.2024 - Lawyer notice

Ext. A2(a) : 20.09.2024 - Postal receipt

Ext. A2(b) : 20.09.2024 - Acknowledgment card

Ext. A3 : - - Postal cover

- Ext. A3(a) : - - Acknowledgment card
- Ext. A4 : 06.11.2024 - Reply notice
- Ext. A5 : 05.04.2019 - Copy of Legal Heirship certificate issued by Tahasildar, Thalassery.
- Ext. A6 : 14.03.2024 - Legal Heirship certificate issued by Thalassery Taluk Office.
- Ext. A7 : 13.03.2022 - Balance sheet and State of Profit and Loss Account of Royal Acqua Farm Pvt.Ltd in the year 2019-20, 2020-2021.

Defendant's Witnesses and Exhibits : NIL

sd/-

Principal Sub Judge.

//True copy//

Principal Sub Judge.

vs/

Fair/Copy of Judgment in
O.S.71/2025
Dated: 22.11.2025.