

IN THE COURT OF THE PRINCIPAL SUB JUDGE, KOTTAYAM.

Present :- Sri. Manish D. A., Principal Sub Judge.

Monday, the 17th day of November, 2025

26th day of Karthika, 1947.

O. S. No.47/2025

Plaintiff :-

Roy Joseph K. J., aged 61,
S/o. Joseph, Kochuparambil House,
Changanacherry P. O., Puzhavath Muri,
Changanacherry Village,
Changanacherry Taluk.

By Adv. Boban T. Theckel.

Defendant :-

Joseph Chacko, aged 69, S/o. Joseph,
Owner of Christhuraja Dental Clinic,
Iritty Village, Thalassery Taluk, Kannur District.
From Kochuparambil House,
Changanacherry P.O., Puzhavath Muri,
Changanacherry Village, Changanacherry Taluk.

Exparte.

This Suit having been finally heard on 05.11.2025 and the court on 17.11.2025 delivered the following.

J U D G M E N T

Suit for partition.

2. The plaint averments in brief, is as follows:- The plaint schedule property originally belonged to the father of plaintiff and defendant named Joseph as per sale deed

No.3308/1951 of Sub Registrar Office, Changanacherry. After death of Joseph, his wife Eliyamma Joseph and their children have become the joint owners in possession. A building bearing No.420 of Ward No.XXXI of Changanacherry Municipality is situated on the plaint schedule property.

3. The mother and sisters of the plaintiff and defendant have transferred their 17/21 share in the plaint schedule property in favour of the plaintiff as per settlement deed No.957/2024 of Sub Registrar Office, Changanacherry. Thus the plaintiff is in possession and enjoyment of 19/21 share. The defendant is entitled to get 2/21 share in the plaint schedule property. The plaintiff has demanded the defendant to effect partition of the plaint schedule property. He has not agreed for partition. Hence the suit was filed to partition the plaint schedule property and divide the 19/21 share entitled by the plaintiff.

4. Even though summons was issued to the defendant, he has not appeared. Hence the defendant was set exparte. Trial was proceeded with in the absence of the defendant.

5. For proving the plaintiff's case, PW1 was examined and Exts.A1 and A2 were marked.

6. Heard the learned counsel for the plaintiff.

7. The plaintiff was examined as PW1. The plaintiff schedule property originally belonged to one Joseph, who is the father of the plaintiff and defendant. Joseph and his wife, Eliyamma Joseph have 7 children including the plaintiff and defendant. PW1 deposed that after death of his father, the mother Eliyamma Joseph and their children have become the joint owners in possession of plaintiff schedule property. There is a building situated on the plaintiff schedule property. According to PW1, his mother and 5 sisters have executed settlement deed No.957/2024 of Sub Registrar Office, Changanacherry thereby transferring their 7/21 share in the plaintiff schedule property in favour of PW1. The original settlement deed dated 01.07.2024 is marked as Ext.A1. Ext.A2 is the tax receipt dated 20.06.2024 issued from Village office, Changanacherry.

8. According to PW1, he is entitled to get 19/21 share on the strength of Ext.A1. Even though he demanded the defendant to effect partition, the defendant has not co-

operated. PW1 has deposed in accordance with the plaint averments. It is proved from the available evidence that the plaintiff is the joint owner in possession of the plaint schedule property and entitled to get 19/21 share in the plaint schedule property. The defendant is entitled to get 2/21 share. There is no contra evidence on record. PW1 is a believable witness.

In the result, the suit is decreed as follows;

- (i) The plaint schedule property is found partible.
- (ii) The plaintiff is entitled to get 19/21 share in the plaint schedule property.
- (iii) The defendant is entitled to get 2/21 share in the plaint schedule property.
- (iv) Costs shall come out of the estate.
- (v) In view of the decision of Hon'ble Supreme Court in **Shub Karan Bubna v. Sita Saran Bubna and Ors., (2009) 9 SCC 689**, Final Decree Proceedings No.10/2025 is initiated and the same is posted for steps therein to 17-12-2025.

Dictated to the Confidential Assistant, transcribed and typed by him, corrected by me and pronounced in open court on this the 17th day of November, 2025.

Sd/-
Manish D.A.,
Principal Sub Judge.

APPENDIX :

Exhibits marked for the Plaintiff :

- A1 : 01.07.2024 : The Original Settlement Deed
No.957/2024.
- A2 : 20.06.2024 : The Tax Receipt from Village Office,
Changanacherry.

Exhibits marked for the Defendant : Nil

Court Exhibits : Nil

Third Party Exhibit : Nil

Witness Examined for Plaintiff :

PW1 : 01.11.2025 : Roy Joseph

Witness Examined for Defendant : Nil

Id/-
Principal Sub Judge.

// True Copy //

Copied by :
Compared by :

Sd/-
Manish D.A.,
Principal Sub Judge.