

IN THE COURT OF THE SUBORDINATE JUDGE OF HOSDURG

Present: Sri.Krishnakumar.N.R., B.A.,LL.B.,Subordinate Judge

Thursday, the 14th day of January, 2016/24th Pousha, 1937ORIGINAL SUIT No.114/2012

Between:-

- 1.Valiyaveetil Karunakran, (Dead)
2. Valiyaveetil Manoharan, (Dead)
3. Valiyaveetil Mohanan, aged 62 years
- 4.Valiyaveetil Ramadasan, aged 57 years
5. Valiyaveetil Sarojini, aged 55 years
6. Valiyaveetil Narayanan, aged 52 years
7. Valiyaveetil Kotha, aged 58 years
8. Valiyaveetil Narayani , (Dead)
9. Valiyaveetil Eruvadi, (Dead)
10. Valiyaveetil Lakshmi (Dead)
11. Valiyaveetil Ravi, aged 45 years
12. Valiyaveetil Ullasan, aged 56 years
13. Valiyaveetil Shanthanu, aged 54 years
14. Valiyaveetil Nalini, aged 50 years
15. Valiyaveetil Savithri, aged 45 years
16. Valiyaveetil Soumini, aged 53 years
17. Valiyaveetil Rugmini, aged 55 years
18. Valiyaveetil Purushothaman, aged 50 years

Plaintiffs

Supplemental

- 19.Narayani, aged 58 years
- 20.Premaja, aged 40 years
- 21.Dinesh, aged 36 years
- 22.Saroja, aged 30 years
- 23.Sudhakaran, aged 28 years
- 24.Soumini, aged 28 years
- 25.Valiyaveetil Mukundan, aged 55 years
- 26.Valiyaveetil Krishnan, aged 52 years
- 27.Valiyaveetil Sumithra, aged 50 years

28. Valiyaveetil Sarojini, aged 48 years
29. Valiyaveetil Shantha, aged 46 years
30. Valiyaveetil Pramodini, aged 44 years
31. Shanthi, aged 57 years
32. Padmini, aged 55 years
33. Surendran, aged 53 years

Plaintiffs

AND

1. Valiyaveetil Lakshmi, (Dead)
2. Valiyaveetil Nanu, aged 57 years
3. Valiyaveetil Pushpakaran, aged 50 years
4. Valiyaveetil Chandran, aged 48 years
5. Valiyaveetil K Shanmughan, aged 50 years
6. K. Karuppan, (Dead)
7. K. Rameshan, aged 45 years
8. K. Rajan, aged 45 years
9. U.S. Karunan, aged 55 years
10. Kottikulam Valiyaveedu Taravas Bharana
Samithi represented by its President,
K. Kuruppan
11. V.V. Sakunthala, aged 72 years

Supplemental

12. Babu, aged 33 years
13. Vanaja, aged 55 years
14. Dilip, aged 34 years
15. Deepa, aged 29 years
16. Dibish, aged 26 years
17. Deekshid, aged 24 years
18. Valiyaveetil Rugmini, aged 65 years
19. Valiyaveetil Chandrababu, aged 59 years
20. Valiyaveetil Rajeevan, aged 57 years
21. Valiyaveetil Pradeepan, aged 55 years
22. Valiyaveetil Jayashree, aged 53 years
23. Valiyaveetil Prasanna, aged 51 years

Defendants

This suit coming on the 8th day of January, 2016 for final hearing before me in the presence of Sri. Satheshkumar.V, Advocate for the Plaintiff Nos.3 to 7,11 to 33 ; Plaintiff Nos.1,2,8 to 10 and Defendants Nos. 2 and 6 reported dead; Defendant Nos.1,3 to 5,7 to 23 called absent and set exparte ; and having stood over to this day for consideration, the Court delivered the following.

J U D G M E N T

Suit is one for recovery of possession.

2. Case of the plaintiff in brief is as follows:- Plaint A schedule property originally belonged on jenm right and was in possession of Valiya Veedu Tharawad. Plaint schedule property along with other properties of the Tharawad were partitioned as per registered partition deed No.311/1910 of SRO, Kasaragod. As per the said partition, the plaint A schedule property together with another item and some movable properties were kept common and undivided and they were set apart for the performance of Daiva Deva Viniyogagas and Adiyanthirams. The said properties are separately shown in the said partition deed as schedule A. At the time of partition there was a big house which was the tharawad house, a small thatched house and two storied Padippura in the A schedule property. As per the stipulations in the partition deed cum family arrangement, the senior most male member should possess and look after the plaint A schedule properties and

perform the various Daiva Deva Viniyogas and Adiyanthirams. Executant No.2 of the partition deed namely, Karutha Kutty was the senior most male member and karnavar of Valiya Veedu Tharawad and therefore he was managing the A schedule property till his death. After the death of Karutha Kutty, the next senior most male member of the Tharawad continued to possess A schedule property and this arrangement continued. The first plaintiff is the present senior most male member of the tharawad and prior to him V.V.Raman was the senior most male member. The said Raman in his capacity as the senior most male member of the tharawad continued in possession and management of plaintiff A schedule property till one year prior to his death. Said Raman became ill and bedridden due to old age during the last few years prior to his death. So he was finding it difficult to manage the A schedule property and to perform the rituals properly. Most of the major male members of the tharawad were employed elsewhere and hence they were also not in a position to manage the A schedule property. At that time, ie, somewhere in 1995, D6 to D9 who are residing very near to A schedule property and belonging to the same community as that of the plaintiffs, came forward with a helping hand and expressed their desire to manage A schedule property and perform rituals on behalf of the plaintiffs and D1 to D5 who are the legal heirs of the executants of partition deed executed in the year 1910. The plaintiffs and D1

to D5 agreed for the said course as they themselves were unable to look after A schedule property due to their absence from the locality and employment. Accordingly, management of A schedule property was entrusted to D6 to D9 in 1995 and ever since then they have been managing the A schedule property for and on behalf of plaintiffs and D1 to D5. They were in management of A schedule property in trust for the members of Valiya Veedu Tharawad and they are only trustees of A schedule property. At the time of entrustment of A schedule property with D6 to D9, it was specifically agreed by them that they will hand over management of A schedule property back to the members of the tharawad as and when demanded. The tharawad house which was situated in A schedule property had become dilapidated and it was demolished a few years ago and in its place, a prayer hall was constructed. The entire expenses for the said construction was met by the plaintiffs and D1 to D5, though the work was supervised by D6 to D9. The Padippura which was in existence in A schedule property was collapsed due to old age a few years ago. The husband of D11 namely, Karuppan was a member of Valiya Veedu Tharawad and he along with D11 was occupying the small house situated in A schedule property. After the death of Karuppan D11 continued to reside in the said house. D11 does not have any right over A schedule property except to reside in the small house in the A schedule property. The plaintiffs have

no objection allowing D11 to continue her residence in the house since she has no other house to live on. The plaintiffs have recently come to know that D6 to D9 are usurping independent right over A schedule property, claiming themselves to the members of the Valiya Veedu Tharawad. D6 to D9 are not members of the said tharawad and they have no connection whatsoever with the said tharawad. Coming to know that D6 to D9 have started to claim independent right over A schedule property, plaintiffs and D1 to D5 have decided to ask D6 to D9 to hand over management of A schedule property back to them. When the plaintiffs and D1 to D5 went to A schedule property on 20.05.2007 and requested D6 to D9 to hand over management of A schedule property back to them, they have stated that they have formed a committee namely, Kottikkulam Valiya Veedu Tharawad Bharana Samithi for the management of A schedule property and that A schedule property now belongs to the said Samithi namely, D10 and that the plaintiffs and D1 to D5 no more have any right over A schedule property. D6 to D9 further pushed the plaintiffs and D1 to D5 out of A schedule property. D6 to D9 have absolutely no right and title over A schedule property. They are bound to surrender A schedule property to the plaintiffs and D1 to D5 on the strength of their title. Hence the suit.

3. On getting process from the court D7 to D10 and D11 entered appearance

and D7 to D10 filed written statement resisting suit claim. D11 supported the plaintiff. Then after giving opportunity to the parties to take steps, the suit has been included in the list for trial. But when the case was taken up for evidence, the counsel for the contesting defendants namely, D7 to D10 reported no instruction. Hence D7 to D10 were called absent and set ex parte. The 12th plaintiff was present before the court and examined himself as P.W.1 and he marked Exts.A1 to A15. The plaint claim stands proved by the unchallenged chief examination affidavit of P.W.1 coupled with Exts.A1 to A15 documents. So the plaintiffs are entitled to get a decree as prayed for.

In the result, the suit is decreed directing the defendants 7 to 10 to surrender possession of plaint A schedule property to the plaintiffs within one month from the date of the decree. In case of failure of the said defendants to surrender possession of the property as stipulated above, the plaintiffs are at liberty to get the vacant possession of the property through process of court at the expense of D7 to D10. The plaintiffs are also entitled to realise the full cost of the suit from D7 to D10.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me, in open court, this, the 14th day of January, 2016.

SUBORDINATE JUDGE

APPENDIX OF EVIDENCE

Witness examined for Plaintiff :-

PW1 : Ullas (12th Plaintiff)

Witness examined for Defendants:- None

Exhibits marked for Plaintiffs :-

A1	26.02.1910	R.C. Of the partition deed entered into between Karichi and others with Malayalam Translation.
A2	08.05.2009	Adangal extract of R.No.155/1 of Pallikkere IInd village
A3	02.1.1960	Certified copy of the memorandum of Appeal in A.S.No.5/1960 on the file of the Sub Court, Kasaragod
A4	03.08.1964	Certified Copy of judgment in A.S.No.5/1960
A5	03.08.1964	Certified copy of the decree in A.S. No.5/1960
A6	10.06.1957	Certified copy of judgment in O.S. 190/1957 of District Munsiff court, Kasaragod
A7		Passport of Ullas
A7(a)		Copy of Passport of Ullas
A8	11.11.1988	Rent bond executed by K.Gopalan in favour of Rajamma
A9	11.10.2011	True extract of assessment register of Ward No.V of Udma Grama Panchayat from the year 1987-88 to 1991-92
A9(a)	15.11.1995	Building Tax extract of the old tarward house in the property

bearing Door No.V-984 for the period 1996-1997

- A9(b) 15.09.2011 Building Tax extract of the building No.IV-235 of Udma Panchayat for the year 1997-2002
- A9 © 15.09.2011 Building Tax extract of the building No.X11-130 of Udma Panchayat for the year 2002-2003 onwards
- A9(d) 05.03.2012 Building Tax extract of the building No.X11 of Udma Panchayat for the year 2002 -03 to 2011-12
- A10 17.01.1954 Building tax receipts in respect of the Tarward House situate in the Plaint A schedule property
- A10 (a) 17.01.1956 Building tax receipts in respect of the Tarward House situate in the Plaint A schedule property
- A10(b) 17.01.1956 Building tax receipts in respect of the Tarward House situate in the Plaint A schedule property
- A10(C) 17.01.1956 Building tax receipts in respect of the Tarward House situate in the Plaint A schedule property
- A11 23.08.1985 Building Tax receipt issued by Uduma Panchayat to Rajamma in respect of Old Tarvad House in the suit property
- A11(a) 01.09.1986 Building Tax receipt issued by Uduma Panchayat to Rajamma in respect of Old Tarvad House in the suit property
- A11(b) 21.11.1995 Building Tax receipt issued by Uduma Panchayat to V.V.Velu in respect of Old Tarvad House in the suit property
- A11(c) 25.11.1995 Building Tax receipt issued by Uduma Panchayat to V.V.Narayanan in respect of Old Tarvad House in the suit property

A11(d) 06.10.1987 Building Tax receipt of house bearing Door No.V-894 of Udma Panchayat

A11(e) 18.12.1992 Building Tax receipt of house bearing Door No.V-984 of Udma Panchayat

A11(f) Building Tax receipt in respect of the tilted house bearing Door No.XII-130 Udma Panchayat

A12 25.08.2011 Original Death Certificate of Rajamma

A13 30.06.2011 Certified copy of Commission report filed by Arjunan Vayalil, Advocate Commissioner appointed in O.S No.515/2007 on the file of Munsiff Court, Hosdurg.

A14 C.C. Of the plan prepared by Arjunan Vayalil, Advocate Commission appointed in the above suit.

A15 15.07.2011 Certified copy of the objection to the Commissioner's report and plan dated 30.6.2011

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Typed by:SheebaK.V

Compared by: Krishnaprasad. V.S

Fair/Copy of Judgment
in O.S.114/2012
Dated: 14.1.2016.