

IN THE COURT OF THE SUBORDINATE JUDGE OF HOSDURG

Present: Sri.K.Vidyadharan, B.Sc.,LL.B.,Subordinate Judge
Tuesday, the 17th day of December, 2019/26th Agrahayana, 1941

ORIGINAL SUIT No.114/2012

Between:-

- | | | |
|--|---|------------|
| <ol style="list-style-type: none"> 1.Valiyaveetil Karunakran, (Dead) 2. Valiyaveetil Manoharan, (Dead) 3. Valiyaveetil Mohanan, aged 62 years 4.Valiyaveetil Ramadasan (dead) 5. Valiyaveetil Sarojini, aged 55 years 6. Valiyaveetil Narayanan, aged 52 years 7. Valiyaveetil Kotha, aged 58 years
(D/o late Kunhamma and the
Grand daughter of Late Mathu)
(Plaintiff 3, 5, to 7 are the children of Late Yesoda
and the Grand children of late Chakki, Hindu,
Cultivator Nos.1 to 7 are permanently
R/at Peedikakkaran House, Koottikulam,
Gopal Petta in Pallikkere II village, Hosdurg Taluk) 8. Valiyaveetil Narayani, (Dead) 9. Valiyaveetil Eruvadi, (Dead) 10.Valiyaveetil Lakshmi (Dead) 11.Valiyaveetil Ravi, aged 45 years
(S/o late Parvathi & grand children of Late.Mathu) 12. Valiyaveetil Ullasan, aged 56 years 13. Valiyaveetil Shanthanu, aged 54 years 14. Valiyaveetil Nalini, aged 50 years 15. Valiyaveetil Savithri, aged 45 years
(Plaintiff Nos.12 to 15 are
Children of Late Sarojini and the grand children
of Late Kottu, R/at Peedikakkaran House,
Kottikulam Gopal Petta, Pallikkere II- Village
Hodurg Taluk) 16. Valiyaveetil Soumini, aged 53 years 17. Valiyaveetil Rugmini, aged 55 years 18. Valiyaveetil Purushothaman, aged 50 years
(16th Plaintiffs is daughter of Late Madhavi
and the grand children of late chakki
and the Plaintiffs 17 and 18 are the
children of Late Narayani and the
grand children of of Late chakki, Hindus,
Cultivators, Permanently,
R/at Peedikakkaran House,
Kottikulam Gopal Petta, Pallikkere-II- Village,
Hosdurg Taluk) | } | 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
(Nos.19 to 24 are children of Valiyaveettil Manohanaran, All are R/at Peedikakkaran House, Kottikkulam, Pallikkere-II Village)
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
(Plaintiff No.25 to 30 are the children of deceased 9th Plaintiff Valiyaveettil Eruvadi, All are R/at Near Kurumba Temple, Adkath Bail Beach, Kasaragod Taluk & District.
31. Shanthi, aged 57 years
32. Padmini, aged 55 years
33. Surendran, aged 53 years
Nos.31 to 33 are children of deceased Valiyaveetil Narayani, All are R/at Peedikakkaran House, Kottikulam, Gopal Petta in Pallikkara- II Village, Hosdurg Taluk.
34. Chandrika.R, aged 32 years,
35. Mahesh.R., aged 29 years,
36. Reena.R., aged 22 years,
All are the children of (L) Valiya Veetil Ramadasan, the plaintiff No.4, Hindus, R/at Kottikkulam, Gopalapetta, P.O. Bekal in Pallikkare IInd village of Hosdurg Taluk.
37. Bharathi, aged 60 years,
38. Gopalan, aged 57 years,
39. Vasanthan, aged 53 years,
40. Vasanthi, aged 51 years,
41. Chandran, aged 48 years,
42. Umeshan, aged 47 years,
43. Soumini, aged 44 years,
Supplemental plaintiff No.37 to 43 are the children of of late Valiya Veetil Lakshmi, the plaintiff No.10, Hindus, residing at Kottikkulam Gopalpetta, P.O. Bekal, Pin-671 318 in Pallikkere IInd village of Hosdurg Taluk.

Plaintiffs

AND

1. 1. Valiyaveetil Lakshmi, (Dead)
2. Valiyaveetil Nanu, (Dead)
3. Valiyaveetil Pushpakaran, aged 50 years
4. Valiyaveetil Chandran, aged 48 years
5. Valiyaveetil K., Shanmughan, aged 50 years
S/o Late Narayani and great grand son of Chakki
Nos.3 and 4 are Children of late Madhavi
and the great grand children of late Chakki,
Nos 3 to 5 are R/at Peedikakkaran House,
Kottikulam, Gopal Petta, Pallikkere-II village,
Hosdurg Taluk, P.O.Bekal.
6. K.Karuppan, (Dead)
7. K.Rameshan, aged 45 years, S/o Kunhambu,
R/at Chirammal, P.O.Bekal in Pallikkere Village,
Hosdurg Taluk.
8. K.Rajan, aged 45 years
S/o.K.Raman, R/at Kottikulam, Beach Road,
P.O.Bekal in Pallikkara village, Hosdurg Taluk.
9. U.S.Karunan, aged 55 years
S/o Sankaran, R/at Malankunnu,
P.O.Bekal, Pallikkere Village, Hosdurg Taluk.
10. Kottikulam Valiyaveedu Taravad Bharana
Samithi represented by its President,
K.Kuruppan (Dead)
11. V.V.Sakunthala, aged 72 years
Widow of late Valiyaveetil Karuppan,
R/at near Kottikulam, Beach Road,
Pallikkere Village Hosdurg Taluk, P.O.Bekal
- Supplemental**
12. Babu, aged 33 years, S/o.V.Manoharan,
R/at Peedikakkaran House, Kottikulam,
Gopal Petta, Pallikkere-II Village, Hosdurg Taluk
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
Supplemental defendants 13 is widow and
14 to 17 are the children of deceased
2nd defendant and all are R/at Peedikakkaran
House, Kottikulam Gopal Petta in Pallikkere -II
Village Hosdurg Taluk.
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

Supplemental defendants No.18 to 23
are the children of deceased 10th Plaintiff
Valiya Veetil Lakshmi, Nos,18 to 21,23 are
residing at Azheekode, Kannur South 670009,
Kannur District.
22nd defendant is residing at Kottikulam,
Pallikkere-II Village.

24.K.Pavithran, aged 52 years
25.K.Raveendran, aged 50 years
26. K.Anandan, aged 48 years
27.K.Geetha Chandran, aged 46 years
28.Pushpa, aged 40 years

Nos.24 to 28 are children of deceased
11th defendant, Valiya Veetil Shakunthala,
all are R/at near Kottikulam Beach road,
in Pallikkere village of Hosdurg Taluk,P.O.Bekal.

Defendants

This suit coming after restoration on 10th day of December, 2019 for final hearing before me in the presence of Sri. Satheeshkumar.V, Advocate for the Plaintiff No. 3, 5, 6, 7, 11 to 43; Sri.P.Narayanan, Advocate for Defendant No.7 to 10 reported no instruction, called absent and set exparte; Defendant No.3 to 5, 11 to 28 called absent and set exparte; Plaintiff No.1, 2, 4, 8, 9 and 10 and defendant No. 1, 2, 6 are reported dead; and having stood over to this day for consideration, the Court delivered the following.

JUDGMENT

The suit is 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 Tharwad. Plaint schedule property along with other properties of the tharawad were partitioned as per registered partition deed No.311/1910 of S.R.O., Kasaragod. As per the said partition, the plaint A schedule property together with another item and some movable properties were kept common, undivided and they were set apart for the performance of Daiva Deva Viniyogas 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 Adiyanthiras. 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 the 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 plaint 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, somewhere in 1995, defendants 6 to 9 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 defendants 6 to 9 who are the legal heirs of the executants of partition deed executed in the year 1910. The plaintiffs and defendants 6 to 9 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 defendants 6 to 9 in 1995 and ever since then they have been managing the A schedule property for and on behalf of plaintiffs and defendants 6 to 9 . 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 defendants 6 to 9 , it was specifically agreed by them that they will hand over management of A schedule property back to the members of the tharwad as and when demanded. The tharawad house which was situated in A schedule property became 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 spent by the plaintiffs and

defendants 1 to 5, though the work was supervised by defendants 6 to 9. The Padippura which was in existence in A schedule property was collapsed due to old age a few years ago. The husband of defendant 11 namely, Karuppan was a member of Valiya veedu tharawad and he along with defendant 11 were occupying the small house situated in A schedule property. After the death of Karuppan, defendant 11 continued to reside in the said house. Defendant 11 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 in allowing defendant 11 to continue her residence in the house since she has no other house to live on. The plaintiffs have recently come to know that defendant 6 to 9 are usurping independent right over A schedule property, claiming themselves to be members of the Valiya veedu Tharawad. Defendant 6 to 9 are not members of the said tharawad and they have no connection whatsoever with the said tharawad. Coming to know that defendant 6 to 9 have started to claim independent right over A schedule property, plaintiffs and defendant 1 to 5 have decided to ask defendant 6 to 9 to hand over management of A schedule property back to them. When the plaintiffs and defendant 1 to 5 went to A schedule property on 20-05-2007 and requested defendant 6 to 9 to hand over management of A schedule property back to them, they have stated that they have formed a committee namely, Kottikulam valiya veedu tharawad Bharana Samithi for the management of A schedule property and that A schedule property now belongs to the said Samithi namely, defendant 10 and that the plaintiffs and defendant 1 to 5 no more have a right over a schedule property. Defendants 6 to 9 further pushed the plaintiffs and defendant 1 to 5 out of A schedule property. Defendant 6 to 10 have absolutely no right and title over A schedule property. They are bound to surrender a schedule property to the plaintiffs and defendant 1 to 5 on the strengths of their title.

3. Defendant Nos.7 to 10 and 11 entered appearance. Defendant Nos.7 to 10 filed written statement. Defendant No.11 supported the plaintiff. Suit was listed for trial. When the case was posted for evidence counsel for defendant 7 to D10, the contesting defendants reported no instruction. Defendant No.7 to 10 called absent and set exparte.

4. The 12th plaintiff filed affidavit in lieu of chief examination and examined himself as PW1. Ext.A1 to A15 were marked.

5. The averments in the affidavit and documents stand un rebutted. Therefore the case of the plaintiffs stands proved. So the plaintiffs are entitled to get the decree as prayed for.

In the result, suit is decreed directing the defendants 7 to 10 to surrender the possession plaint A schedule property to the plaintiffs within one month from the date of decree.

In case of failure of defendants to surrender the possession of property as stipulated above, plaintiffs are at liberty to get the vacant possession of the property through the process of court at the expenses of defendants 7 to 10.

Plaintiffs are also entitled to realise the full costs of the suit from defendant Nos.7 to 10.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open Court, this the 17th day of December, 2019.

SUBORDINATE JUDGE.

APPENDIX OF EVIDENCE

Witness examined for Plaintiff:-

PW1 : Valiyaveettil Ullas (12th Plaintiff)

Witness examined for Defendants:- NIL.

Witness examined for Court: NIL.

Exhibits marked for Plaintiff :-

A1.	26.02.1910	R.C. of partition deed No.311.1910 of SRO, Kasaragod.
A2.	--	Adangal extract of R.S.No.155/1 of Pallikkare-II Village.
A3.	02.01.1960	C.C.of memorandum of appeal in A.S.No.5/1960 of Sub Court, Kasaragod.
A4.	03.08.1964	C.C. of Judgment in A.S.5/1960 of Sub Court, Kasaragod
A5.	03.08.1964	C.C. of decree in A.S.5/1960 of Sub Court, Kasaragod
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(c)	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	17.01.1956	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	06.10.1987	Building Tax receipt of house bearing Door No.V-894 of Udma Panchayat
A11(a)	11.12.1991	Building Tax receipt of house bearing Door No.V-894 of Udma Panchayat.
A11(b)	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(c)	29.07.1993	Building Tax receipt of house bearing Door No.V-984 of Uduma Grama Panchayat.
A11(d)	25.11.1995	Building Tax receipt issued by Uduma Panchayat to V.V.Velu in respect of Old Tarvad House in the suit property
A11(d)	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(e) -- 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.

Exhibits marked for Defendant :- NIL.

Exhibits marked for Court:- NIL.

SUBORDINATE JUDGE

Typed by: Abida beegum.T.M.
Compared by: Rajan.K.P.

Fair/Copy of Judgment
in O.S.114/2012
Dated: 17.12.2019.