

## IN THE COURT OF THE MUNSIFF OF CHITTUR

Present :- Sri. Raphael.E.V., Munsiff, Chittur  
Friday the 19<sup>th</sup> day of January, 2024  
29<sup>th</sup> day of Pousha, 1945 S.E.

**ORIGINAL SUIT No: 383/2016**

- 1 Unnikrishnan, (Died), : Plaintiffs  
aged 65 years, S/o.Kunjappan,  
Malayankuzhi House,  
Kumaramputhur,  
Pallavoor Post, Chittur Taluk
- 2 Karvarnnan, aged 61 years,  
S/o.Kunjappan,  
Malayankuzhi House,  
Kumaramputhur,  
Pallavoor Post, Chittur Taluk
- 3 Mohandas, aged 55 years,  
S/o.Kunjappan, Malayankuzhi House,  
Kumaramputhur, Pallavoor Post, Chittur Taluk
- 4 Sivadasan, aged 53 years,  
S/o.Kunjappan, Malayankuzhi House,  
Kumaramputhur, Pallavoor Post, Chittur Taluk
- 5 Draupathi, aged 50 years,  
W/o.Sachithanandan, Cherungolikalam,  
Karipode Post, Chittur Taluk
- 6 Omnanakumari, aged 47 years,  
W/o.Nandakumar, Narnikalam,  
Kuttipadam Post, Chittur Taluk
- 7 Sairandri, aged 55 years,  
W/o.Late.Radhakrishnan,  
Malaymkuzhi House,  
Kumaramputhur, Pallassena,  
Pallavoor Post, Chittur Taluk

- 8 Viswaprathap, aged 20 years, : Defendants  
S/o.Radhakrishnan,  
Malaymkuzhi House,  
Kumaramputhur, Pallassena,  
Pallavoor Post, Chittur Taluk
- 9 Tinscha, aged 31 years,  
W/o.Abhilash, Pedamurikalam,  
Nenmeni Post, Chittur Taluk-678506  
Supplemental Plaintiff Nos.10 to 13
- 10 Sathidevi, aged 63 years,  
W/o.Late.Unnikrishnan,  
Malayankuzhi House,  
Kumaramputhur, Pallavoor Post,  
Chittur Taluk, Palakkad District
- 11 Roopesh, aged 38 years,  
S/o.Late.Unnikrishnan,  
Malayankuzhi House,  
Kumaramputhur,  
Pallavoor Post, Chittur Taluk  
Palakkad District
- 12 Tintu, aged 35 years,  
S/o.Late.Unnikrishnan,  
Malayankuzhi House,  
Kumaramputhur, Pallavoor Post,  
Chittur Taluk, Palakkad District
- 13 Teena, aged 35 years,  
S/o.Late.Unnikrishnan,  
Malayankuzhi House,  
Kumaramputhur,  
Pallavoor Post, Chittur Taluk  
Palakkad District  
(Supplemental Plaintiff Nos.10 to 13  
Impleaded and Amended as per order in  
I.A.No.934/2022 and I.A.No.927/2022 dated  
06-06-2022)

Vs.

Subash Alias Kuttan, aged 37 years, : Defendant  
S/o.Kunju, Kinnatingal House,  
Padinjaremuriyil, Kumaramputhur,  
Pallasena Village, Pallavoor Post, Chittur Taluk

This suit is coming on this day for hearing before me in the presence of Sri.N.R.Venkitanarayanan, Sri.U.Suresh and Sri.V.Kaladharan, Advocates for the 2<sup>nd</sup> to 13<sup>th</sup> plaintiffs, 1<sup>st</sup> plaintiff died and defendants called absent and set exparte and the court delivered the following :-

## J U D G M E N T

Suit for fixation of boundary and permanent prohibitory injunction.

2. Plaint averments in brief are as follows :- The plaintiffs No.1 to 6 and deceased Radhakrishnan Viz. The husband of plaintiff No.7 and father of the plaintiffs No.8 and 9, are the legal heirs of deceased Kamalakshy and deceased Kunjappan. The plaint schedule properties were originally acquired late Kamalakshy viz. The mother of the plaintiffs No.1 to 6, mother-in-law of plaintiff No.7 and paternal grand mother of plaintiff Nos.8 and 9 by virtue of allotment of the same in the A-schedule to the partition deed No.450/1974 of S.R.O.Kollengode as items Nos.2 and 3. After the death of Kamalakshy and Radhakrishnan, the plaint schedule property has been inherited by the plaintiffs, as they are the only legal heirs of deceased Kamalakshy, and Radhakrishnan. The

plaint schedule properties are in the joint possession of the plaintiffs. The defendant has got paddy land on the eastern side of the plaint schedule property and the same is comprised in resurvey No.51/7. There is a ridge in between the plaint schedule property and the property comprised in resurvey No.51/7. The ridge situated on the eastern side of the plaint schedule property, is part and parcel of plaint schedule property and the same is comprised in resurvey No.51/5 and 51/6. The defendant have no manner of right on the eastern ridge of the plaint schedule property. The defendant is doing business of country bricks manufacturing, which is situated on the south-eastern side of the paddy land comprised in resurvey No.51/7. The 3<sup>rd</sup> plaintiff complained to various authorities about the removal of earth from the paddy land by the defendant and about the running of brick kiln by the defendant in an illegal manner and the authorities issued stop memo to the defendant. The defendant became enmical terms with the plaintiff and the defendant is now disputing the correctness of the eastern boundary of the plaint schedule property without bonafides and making earnest efforts to reduce the width of eastern ridge of the plaint schedule property into his possession. If the eastern boundary of the plaintiffs is not getting fixed, the defendant will not allow the plaintiffs to have peaceful possession and

enjoyment of the same. On 14-09-2016 at about 8 a.m when the 3<sup>rd</sup> plaintiff was in the plaint schedule property, the defendant came there and made an attempt to reduce the width of the eastern ridge of plaint schedule property. Hence the suit

3. The defendant entered appearance and filed written statement denying the averments in the plaint. But when the case was listed the counsel for the defendant reported no instruction on the side of the defendant. Hence the defendant was called absent and set exparte.

5. To prove the case of the plaintiff, PW1 filed proof affidavit in lieu of chief examination and the documents produced was marked as Ext.A1, A2 and C1, C1(a), and C1(b). No contra evidence tendered. The unchallenged evidence of PW1 and the documents marked as Exts.A1, A2 and C1, C1(a) and C1(b) are accepted. The affidavit along with the documentary evidence proved the case of the plaintiff.

In the result, suit is decreed with costs as follows :-

- (1) The eastern boundary of the plaint schedule property is hereby fixed as per Exts.C1, C1(a) and C1(b) report and survey plan submitted by the Advocate commissioner.
- (2) After fixation of the plaint schedule property, the defendant and his men are hereby restrained by way of permanent

prohibitory injunction from trespassing into the plaint schedule property, or interfering with the peaceful possession and enjoyment of the plaintiffs in the plaint schedule property.

- (3) Exts.C1, C1(a) and C1(b) shall do form part of the decree.
- (4) The plaintiffs are entitled to realize the costs of the suit from the defendants.

Dictated to the Confidential Assistant, transcribed by him, corrected and pronounced by me in open court on this the 19<sup>th</sup> day of January, 2024.

Munsiff

Plaintiffs Witness Examined :

PW1 : Karvarnan

Plaintiffs Exhibits :

A1 03-04-1974 : Partition deed No.450/1974 of SRO Kollengode entered in to Kamalakshi and others

A2 03-05-2023 : Basic tax receipt (Thandaper No.5828) issued by Village Officer, Pallassena in the name of Sivadasan and others

Defendants Witness and Exhibits : Nil

Court Witness Examined: Nil

Court Exhibits:

- C1      05-10-2023    :    Commission Report submitted by Advocate Commissioner  
Sujana.S
- C1(a)   05-10-2023    :    Survey Plan submitted by Advocate Commissioner Sujana.S
- C1(b)   05-10-2023    :    Survey Plan submitted by Advocate Commissioner Sujana.S

Munsiff

Typed by : Sreela.K.S  
Compared by : Dhanya.P.V

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Fair / Copy of Judgment in  
O.S.No. 383/20216  
Dated : 19/01/2024  
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