

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

OP(C).No. 1011 of 2015 (O)

OS 29/1999 of MUNSIF COURT, TIRUR

PETITIONER/4TH RESPONDENT/4TH PLAINTIFF :

AHAMMED, AGED 59 YEARS,
S/O.ALIYAMU, PARAMBIL HOUSE, MARAKKARA AMSOM,
KALLARAMANGALAM DESOM, TIRUR TALUK. (P4).

BY ADV. SRI.RAJIT

RESPONDENTS/PETITIONER & RESPONDENTS 1 TO 3 & 5 TO 33
/PLAINIFFS 1 TO 3 & 5 & 6 DEFENDANTS.:

1. PARAMMAL ALYAMU'S DAUGHTER MAMMATHU,
MARAKKARA AMSOM, KALLARAMANGALAM DESOM,
TIRUR TALUK-676 515.
2. PARAMMAL ALYAMU'S SON YOUSAF, AGED 62 YEARS,
MARAKKARA AMSOM, KALLARAMANGALAM DESOM,
TIRUR TALUK-676 515.
3. PARAMMAL ALYAMU'S DAUGHTER MARIYA, AGED 53 YEARS,
MARAKKARA AMSOM, KALLARAMANGALAM DESOM,
TIRUR TALUK-676 515.
4. PARAMMAL ALYAMU'S SON KUNHALAKUTTY,
P.B.NO.56510, BANIYAS, ABUDABI, UAE-56610.
5. MADANI K KUHIYIL CHEKKUTTY'S SON AHAMMED, AGED 33 YEARS,
MARAKKARA AMSOM, KALLARAMANGALAM DESOM, TIRUR TALUK-676 515.
6. DECEASED KADIYA'S CHILDREN AHAMMEDKUTTY, AGED 57 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 518.
7. NAFEESA, AGED 56 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
8. BIYYAMMAKUTTY, AGED 46 YEARS,
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 518.

9. KADER, AGED 44 YEARS,
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 518.
10. KASIM, AGED 39 YEARS,
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 518.
11. KOMU, MARAKKARA AMSOM,
KALLARAMANGALAM DESOM , TIRUR TALUK-676 518.
12. MOOSAKUTTY
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 518.
13. BULKEES
MARAKKARA AMSOM, KALLARAMANGALAM DESOM, TIRUR TALUK.
14. PARAMMAL KADER'S WIFE AMINA, AGED 68 YEARS,
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 518.
15. MANDAYAPPURAM MARAKKAR'S SON ABDUL GAFOOR, AGED 43 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
16. MANDAYAPPURAM MOOSA'S WIFE PATHUMMA, AGED 83 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
17. MANDAYAPPURAM MARAKKAR'S SON SALEEM, AGED 33 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
18. MANDAYAPPURAM MUHAMMED HAJI'S SON YOOSUF,
KALPAKANCHERY, AMSOM DESOM, TIRUR TALUK-676 551.
19. MANDAYAPPURAM MUHAMMED HAJI'S DAUGHTER SUBAIDA,
AGED 43 YEARS, KALPAKANCHERY, AMSOM DESOM, TIRUR TALUK-676 551.
20. MANDAYAPPURAM MUHAMMED HAJI'S SON SULAIMAN, AGED 58 YEARS
KALPAKANCHERY, AMSOM DESOM, TIRUR TALUK-676 551.
21. MANDAYAPPURAM MUHAMMED HAJI'S SON PULIKKAL UMMER,
AGED 51 YEARS, KALPAKANCHERY, AMSOM DESOM,
TIRUR TALUK-676 551.
22. MANDAYAPPURAM MUHAMMED HAJI'S SON MOIDEENKUTTY,
AGED 48 YEARS, MARAKKARA AMSOM,
KALLARAMANGALAM DESOM, TIRUR TALUK-676 551.
23. MANDAYAPPURAM AHAMMEDKUTTY'S SON MANDAYAPPURAM
MUHAMMED HAJI, AGED 78 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.

24. MANDAYAPPURAM MARAKKAR'S DAUGHTER SAFIYA, AGED 38 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
25. MANDAYAPPURAM MARAKKAR'S DAUGHTER SHAHIDA, AGED 33 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
26. MANDAYAPPURAM MARAKKAR'S SON KABEER, AGED 38 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
27. MANDAYAPPURAM MARAKKAR'S DAUGHTER MARIYUMMU, AGED 38 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
28. MACHINCHERY PATHUMMA, AGED 53 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
29. PARAMMAL ALIYAMU'S DAUGHTER ALEEMA, AGED 65 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
30. PARAMMAL ALIYAMU'S DAUGHTER KUNHEEMA, AGED 63 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
31. MANDAYAPPURAM KUNHARU'S SON MUHAMMED HAJI,
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
32. MANDAYAPPURAM KUNHARU'S DAUGHTER KADIYA, AGED 73 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
33. MANDAYAPPURAM KUNHARU'S DAUGHTER AYISHA, AGED 33 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
34. MANDAYAPPURAM KUNHARU'S DAUGHTER THITHY UMMA, AGED 53 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
35. MANDAYAPPURAM KUNHARU'S SON ATHIKKA UMMA
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
36. MANDAYAPPURAM KUNHARU'S SON MOOSA, AGED 55 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
37. AYISHA
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.

38. PATHUMMA, MARAKKARA AMSOM,
KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
39. RAMLA, MARAKKARA AMSOM,
KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
40. KADEEJA, MARAKKARA AMSOM,
KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
41. KALLAYI RAYIN'S WIFE THEKKINIYAKATH PATHUMMAKUTTY,
AGED 53 YEARS, MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
42. KALLAYI RAYIN'S DAUGHTER KADEEJA, AGED 38 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
43. VALIYAPARAMBIL MUHAMMED SON HAMEED, AGED 38 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
44. MANDAYAPPURAM MOOSA'S SON AHAMMEDKUTTY, AGED 48 YEARS
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.
45. MANDAYAPPURAM RUKHIYA,
MARAKKARA AMSOM, KALLARAMANGALAM DESOM
TIRUR TALUK-676 510.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 08-04-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 1011 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1: TRUE COPY OF THE ORDER DATED 14/1/2015 IN IA NO.686/2013 AND
 IA 972/2013 IN IA 309/2011 IN OS NO.25/1999.**

RESPONDENT(S)' EXHIBITS

: NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.BHAVADASAN, J.

O.P.(C) No. 1011 of 2015

Dated this the 08th day of April, 2015

J U D G M E N T

The limited prayer in this original petition under Article 227 of the Constitution of India is for a direction to the Munsiff Curt, Tirur to expedite the disposal of I.A.No. 309/2011 which is a final decree application in the suit. It was pending consideration from 2011 onwards.

2. In a suit for partition, a preliminary decree was passed and a petition was moved for passing of final decree. In the final decree proceedings, a Commission was deputed and even though the respondents did not co-operate with the Commissioner and he filed a report excluding item No. 18 from the purview of the inspection.

3. Respondents are alleged to have filed a petition before the court below along with certain documents pointing out that, item 18 is also liable to be partitioned and the Commissioner may be directed to inspect that property

also.

4. The only grievance of the petitioner is that the matter is being protracted under one pretext or another and passing of the final decree is being unnecessarily delayed. The petitioner therefore prays that there may be a direction to the Munsiff Court, Tirur to take up the matter at the earliest and dispose of the same in accordance with law.

5. In the nature of the order that is proposed to be passed, it is felt that notice to the respondents is unnecessary as none of their rights are affected.

This petition is disposed of directing the Munsiff Court, Tirur to take up I.A.No. 309/2011 and dispose it of as expeditiously as possible, after considering the various claims put forward by the parties in accordance with law, at any rate, within a period of six months from the date of re-opening of the court after summer vacation.

Sd/-
P.BHAVADASAN
JUDGE

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