

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

OP(C).No. 2612 of 2015 (O)

**(IN CONNECTION WITH E.P.28/1982 IN O.S.37/1957 ON THE FILES OF SUB
COURT, VATAKARA)**

PETITIONER(S)/93RD RESPONDENT:

**PATTATHIL KASIM AGED 51 YEARS
S/O.AMMATH, POOMALA PUTHIYA VEETIL, P.O NADAPURAM
VATAKARA TALUK**

BY ADV. SRI.P.K.SAJEEV

RESPONDENT(S)/PETITIONERS 1 TO 46 & RESPONDENTS 1 TO 92:

- 1. THARAMMAL VANMARI NARAYANAN NAMBIAR
KAKKATTUKANDIYIL, VATAYAM AMSOM DESOM**
- 2. THARAMMAL VANMERI KALLIANI AMMA,
KALARIPOYIL, KAYAKKODI AMSOM, KARANDODE DESOM**
- 3. SON SREEDHARAN NAMBIAR
RESIDING AT KALARI POYIL, KAYAKKODI AMSOM
KARANDODE DESOM**
- 4. SISTER PADMAVATHI
KALARIPOYIL, KAYAKKODI AMSOM, KARANDODE DESOM**
- 5. SISTER KUNHILAKSHMI
KALARIPOYIL, KAYAKKODI AMSOM, KARANDODE DESOM**
- 6. SISTER SAVITHRI
KALARIPOYIL, KALARIPOYIL, KAYAKKODI AMSOM
KARANDODE DESOM**
- 7. SISTER SARAJINI
KALARIPOYIL, KAYAKKODI AMSOM, KARANDODE DESOM**
- 8. BROTHER RABHAKARAN
KALARIPOYIL, KAYAKKODI AMSOM, KARANDODE DESOM**
- 9. BROTHER GOPI
KALARIPOYIL, KAYAKKODI AMSOM, KARANDODE DESOM**
- 10. SOBHANA
KALARIPOYIL, KAYAKKODI AMSOM, KARANDODE DESOM**
- 11. LAKSHMI AMMA
VADAKKAN PILAVIL, KUNNUMMAL AMSOM DESOM**

12. THARAMMALVENMERI KUNHIRAMAN NAMBIAR
VADAKKAN PILAVIL, KUNNUMMAL AMSOM DESOM
13. THARAMMAL VANMERI NARAYANI AMMA
VADAKKAN PILAVIL, KUNNUMMAL AMSOM DESOM, PIN-673 101.
14. THARAMMAL VANMERI RAGHAVAN NAMBIAR
VADAKKAN PILAVIL, KUNNUMMAL AMSOM DESOM, THARAMMAL
PIN-673 101.
15. THARAMMAL VANMERI SREEDHARAN NAMBIAR
VADAKKAN PILAVIL, KUNNUMMAL AMSOM DESOM, THARAMMAL
PIN-673 101.
16. THARAMMAL VANMERI PRASANNA
VADAKKAN PILAVIL, KUNNUMMAL AMSOM DESOM, PIN-673 101.
17. GEETHA
D/O.14TH DEFENDANT, THARAMMAL VANMERI NARAYANI AMMA
THARAMMAL VANMERI NARAYANI AMMAVADAKKAN PILAVIL
KUNNUMMAL AMSOM DESOM, PIN-673 101.
18. THARAMMAL VANMERI KUTTIKRISHNAN
THARAMMAL VANMERI NARAYANI AMMAVADAKKAN PILAVIL
KUNNUMMAL AMSOM DESOM, PIN-673 101.
19. SISTER DAKSHAYANI
THARAMMAL VANMERI NARAYANI AMMAVADAKKAN PILAVIL
KUNNUMMAL AMSOM DESOM, PIN-673 101.
20. THARAMMAL VANMERI AMMUKUTTY AMMA
MARAVEETIL, NADAKKUTHAZHA AMSOM DESOM, PIN-673 101.
21. SISTER JANU AMMA
MARAVEETIL, NADAKKUTHAZHA AMSOM DESOM, PIN-673 101.
22. SISTER LEELA AMMA
MARAVEETIL, NADAKKUTHAZHA AMSOM DESOM, PIN-673 101.
23. BROTHER BALAKRISHNAN NAMBIAR
MARAVEETIL, NADAKKUTHAZHA AMSOM DESOM, PIN-673 101.
24. VIJAYALAKSHMI
MARAVEETIL, NADAKKUTHAZHA AMSOM DESOM, PIN-673 101.
25. SISTER OMANA
MARAVEETIL, NADAKKUTHAZHA AMSOM DESOM, PIN-673 101.
26. SISTER PADMAJA
MARAVEETIL, NADAKKUTHAZHA AMSOM DESOM, PIN-673 101.
27. GEETHA
MARAVEETIL, NADAKKUTHAZHA AMSOM DESOM, PIN-673 101.

28. SARALA
(D 25 TO 33 ARE LEGAL HEIRS OF DECEASED D 24).MARAVEETIL
NADAKKUTHAZHA AMSOM DESOM, PIN-673 101.
29. THARAMMAL VANMERI PARVATHI AMMA
PUTHIYOTTIL, ERAMALA AMSOM, DESOM
673 101.
30. DAUGHTER SANTHA
PUTHIYOTTIL ERAMALA AMSOM DESOM, -673 101.
31. BROTHER MOHAN
PUTHIYOTTIL ERAMALA AMSOM DESOM
-673 101.(D35 (30TH PLAINTIFF) LEGAL
HEIRS OF DECEASED D34.
32. (SUP0PL.) EDOTHKANDY BHARATHI AMMA
W/O.KUNHIRAMAN NAMBIAR, SWASTHAM, IRINGANNOOR AMSOM
KAYAPPANACHI DESO, VATAKARA TALUK-673 101.
33. (SUP0PL.) EDOTHKANDY HARIDASAN
S/O.KUNHIRAMAN NAMBIAR, AGRICULTURSIT
IRINGANNOOR AMSOM, KAYAPPANACHI DESO
VATAKARA TALUK-673 101.
34. KUNHIPARVATHI AMMA
W/O.T.V.NARAYANAN NAMBIAR, KAKKATTUKANDIYIL HOUSE
VATAYAM P.O., VATAKARA-673 101.
35. AMBUJAKSHI
D/O.T.V.NARAYANAN NAMIAR
PUKAYILENTE PARAMBATH HOUSE, VATAYAM P.O.
VATAKARA-673 101.
36. DINAKARAN
S/O.T.V.NARAYANAN NAMIAR, KASKKOTT KANDIYIL HOUSE
VATAYAM P.O., VATAKARA-673 101.
37. GEETHA
W/O.T.V.NARAYANAN NAMIAR
KAKKATTAKANDIYIL KANDIYIL HOUSE, VATAYAM P.O.
VATAKARA-673 101.
38. DINESAN
KAKKATTAKANDIYIL KANDIYIL HOUSE, VATAYAM P.O.
VATAKARA-673 101.
39. NIRMALA K.
D/O.T.V.JANU AMMA, THERAMBATH HOUSE, AVALA P.O.
MEPPAYOOR VIA, VATAKARA-673 101.
40. SALILA K.
VIKRAMAMKANDIYIL HOUSE, PERAMBRA P.O.
KOZHIKODE DISTRICT.

41. RAMACHANDRAN A.
B1-20, POLICE QUARTERS, PUTHUPETTA
CHENNAI-2.
42. PREMAKUMAR A.
MARAVEETIL, NADAKKUTHAZHA AMSOM DESOM, PIN-673 101.
43. RADHIKA A.
C/O.ANILKUMAR, KALLOOR HOUSE, MUPPATHADAM P.O.
ALUVA VIA, ERNAKULAM-683 110.
44. SASIKUMAR A.
33/16, MYROR, CHITTY BABU STREET TRIPPIKEN CHENNAI-5.
45. MANOJKUMAR P.
MYNAKAM, THONDENTEVID, NALUTHARA P.O.
MAHE, PONDICHERY, PIN-673 310.
46. GEETHA P.
KARANGOTT HOUSE, PALERI P.O., VATAKKUMBAD
KUTTADI VIA, VATAKARA TALUK.
47. THARAMMA, VANMERI KUNKAMMA AMMA
CHEDAKKAL, MUNNUMMAL AMOM DESOM-673 101.
48. SON THARAMMAL VANMERI KUNHIRAMAN NAMBIAR
CHATHOTH, CHEDAKKAL, KUNNUMMAL AMSOM
DESOM673 101.
49. SISTER LAKSHMIKUTTY AMMA
CHEDAKKAL, KUNNUMMAL AMSOM, DESOM673 101.
50. THARAMMAL VANMERI KUNHIMADHAVI AMMA
PUTHANPURAKKAL, VELLOOR AMSOM DESOM.
51. THARAMMAL VANMERI SANKARAN NAMBIAR
CHEDAKKAL, KUNNUMMAL AMSOM, DESOM673 101.
52. SISTER THARAMMAL VANMERI SAROJINI AMMA
CHEDAKKAL, KUNNUMMAL AMSOM, DESOM673 101.
53. SISTER THARAMMAL VANMERI NARAYANI AMMA
CHEDAKKAL, KUNNUMMAL AMSOM, DESOM673 101.
54. GOVINDAN NAMBIAR @ BALAN NAMBIAR
S/O.3RD PLAINTIFF-673 101
55. `SISTER THARAMMAL VANMERI KAMALAKSHI
CHEDAKKAL, KUNNUMMAL AMSOM, DESOM673 101.
56. BROTHER THARAMMAL VANMERI RAGHAVAN
CHEDAKKAL, KUNNUMMAL AMSOM, DESOM673 101.
57. BROTHER THARAMMAL VANMERI VENUGOPALAN
CHEDAKKAL, KUNNUMMAL AMSOM, DESOM673 101.

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58. BROTHER THARAMMAL VANMERI SADANANDAN
CHEDAKKAL, KUNNUMMAL AMSOM, DESOM673 101.
59. BALAKRISHNAN
S/O.5TH PLAINTIFF, PIN-673 101.
60. BROTHER CHANDRAN
CHEDAKKAL, KUNNUMMAL AMSOM, DESOM673 101.
61. BROTHER VIJAYAN
CHEDAKKAL, KUNNUMMAL AMSOM, DESOM673 101.
62. NOT NAME
63. THILLERY GOPALAN ANAMBIAR
KOCHERI, VILLIAPALLY AMSOM DESOM, PIN-673 101.
64. SISTER NARAYANI
KOCHERI, VILLIAPALLY AMSOM DESOM, PIN-673 101.
65. SON THILLERY RAMAKRISHNAN
KOCHERI, VILLIAPALLY AMSOM DESOM, PIN-673 101.
66. SISTER RADHA
KOCHERI, VILLIAPALLY AMSOM DESOM, PIN-673 101.
67. SISTER RAMANI
KOCHERI, VILLIAPALLY AMSOM DESOM, PIN-673 101.
68. SISTER RAJALAKSHMI
KOCHERI, VILLIAPALLY AMSOM DESOM, PIN-673 101.
69. DR.T.VNARAYANAN NAMBIAR
VADAKARA AMSOM DESOM-673 101.
70. T.VKUNHIKRISHNAN NAMBIAR
VADAKARA AMSOM DESOM-673 101.
71. BROTHER -D0- GOPALAN NAMBIAR
VADAKARA AMSOM DESOM-673 101.
72. THARAMMAL VANAMERI KRISHNAN AMBIAR
ONCHIYAM AMSOM DESOM-673 101.
73. THARAMMAL VANAMERI LAKSHMI AMMA
RESIDING AT PALOLLATHIL
NARIPPATTA AMSOM DESOM-673 101.
74. BORTHER THARAMMAL VANAMERI KUNHIRAMAN NAMBIAR
RESIDING AT PALOLLATHIL
NARIPPATTA AMSOM DESOM-673 101.
75. BORTHER THARAMMAL VANAMERI NARAYANAN NAMBIAR
RESIDING AT PALOLLATHIL
NARIPPATTA AMSOM DESOM-673 101.

76. BORTHER THARAMMAL VANAMERI RAGHAVAN
RESIDING AT PALOLLATHIL
NARIPPATTA AMSOM DESOM-673 101.
77. BORTHER THARAMMAL VANAMERI BHASKARAN
RESIDING AT PALOLLATHIL
NARIPPATTA AMSOM DESOM-673 101.
78. SISTER PADMAVATHI
RESIDING AT PALOLLATHIL
NARIPPATTA AMSOM DESOM-673 101.
79. SISTER NOT NAME
80. THARAMMAL VANAMERI KELAPPAN NAMBIAR
RESIDING AT MANEKKANDIYIL
KUNNUMMAL AMSOM DESOM-673 101.
81. PUTHIYADUTH KEEZHALAN AMMALU AMMA
KAYAKKODI AMSOM, AKKAL DESOM
LEGAL HEIRS OF 39TH DEFENDANT.
82. SON PUTHIYADUTH KEEZHALAN BALAKRISHNAN
KAYAKKODI ASMOM, AKKAL DESOM, PIN-673 101.
83. PUTHIYADUTH KEEZHALAN RADHA
KAYAKKODI ASMOM, AKKAL
84. KURUNGOT KUNHIRAMAN NAMBIAR
RESIDING AT MARAMKANDIYIL KAYAKKODI AMSOM
AKKAL DESOM, PIN-673 101.
85. KRISHNAN VEETIL AMMALU AMMA
RESIDING AT KUNNOTH, KADAMERI AMSOM DESOM
LEGAL HEIRS OF DECEASED D1, PIN-673 101.
86. SON KRISHNAN VEETIL KUNHIKRISHNAN ADIYODI
RESIDING AT KUNNOTH, KADAMERI AMSOM DESOM
PIN-673 101.
87. BROTHER GOPALAN ADIYODI,
RESIDING AT KUNNOTH, KADAMERI AMSOM DESOM
PIN-673 101.
88. BROTHER D0- BHASKARAN DIUODI
89. ROTHER RAGHAN
-DO.
90. BROTHER CHANDRAN
-DO.

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91. SISTER SAROJINI
-DO.
92. PULLANCHERI THIRUVOTH NARAYANIKUTTY AMMA
NADAKKUTHAZHA AMSOM DESOM
LEGAL HEIR OF DECEASED D 38 AND D 93.
93. DAUGHTER VARISYAKUNTYIL LAKSHMIKUTTY AMMA
RESIDING AT CHATHOTH, KUNNUMMAL DESOM
LEGAL HEIR OF DECEASED D49
94. MARARIKULAM NARAYANAN NAMBIAR
95. WIFE M MEENAKSHI AMMA
RESIDING AT MARIVEETIL, LEGAL HEIR OF DECEASED D41
96. DAUGHTER RADHAV DEVI
-DO.
97. BROTHER RAJAGOPALAN
-DO.
98. SISTER SATHIDEVI
-DO.
99. PREMACHANDRAN
-DO.
100. BROTHER RADHAKRISHNAN
-DO.
101. SISTER REMANI (DIED)
-DO.
102. VIJAYAKRISHNAN
RESIDING AT KODAKKATTUNI HOUSE, HAROSSIL, MARIVEETIL
103. WIFE KOTHIYAPARAMBATH VENGOLI PERUVANKADIYIL
KALLIANI AMMA, RESIDING AT MANHOLIKADIYIL
KATTUMMAL AMSOM, DESOM
LEGAL HEIR OF D 75.PIN-673 101.
104. DAUGHTER ANI AMMA
RESIDING AT MANHOLIKADIYIL, KATTUMMAL AMSOM, DESOM
LEGAL HEIR OF D 75. PIN-673 101.
105. SISTER KARTHYANI AMMA
RESIDING AT KEZHANA, KADAMERI AMSOM DESOM-673 101.
106. MADATHIKANDIYIL PARKUM -DO- CHINNAKURUP
KUNNUMMAL AMSOM DESOM-673 101.
107. LEELA AMMA
DO- DESOM

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108. CHATTUVAKANDY NANU
S/O.KELAPPAN, FITTER MOTOR MEECHANITE , KAKKATTIL
VATAKARA AMSOM DESOM-673 101.
109. CHACHANATH RAVEENDRAN NAIR
S/O.UNNI NAIR, MOTOR VEHICLE COACH FACTORY
MADRAS (HUSBAND OF DECEASED E 55).
110. SON MARIVATTIL MANJOJ
KOZHIKODE-673 101.
111. SISTERN NISHA
112. MAKKOTTATHIL AMMAD
REP. BY P/A. HOLDER FATHER MAKKOOTTATHIL MOIDU
KUNNUMMAL AMSOM DESOM, VATAKARA-673 101.
113. P.MEENAKSHI AMMA
W/O.LATE T.V.KRISHNAN NAMBIAR, POYIL HOUSE
ONCHIYAM P.O., VATAKARA-673 102.
114. P.P.SANTHA
D/O.LATE KRISHNAN NAMBIAR
C/O.T.GOPALAN KRISHNA (RTD), EXECUTIVE ENGINEER
SILPAM, IV-396, JAVAR ROAD
CHOVVA, KANNOR-6.
115. P.SOMAN
S/O.LATE KRISHNAN NAMBIAR, INDIRA APARTMENT, NO.2
GROUND FLOOR, 25-RAMANANDAN ROAD, KILPARK
MADRAS-10.
116. M.K.LAKSHMIKUTTY AMMA
W/O.LATE KUNHIRAMAN NAMBIAR, MARAMKANDIYIL HOUSE
KAKKATTIL P.O., VADAKARA-01.
117. M.K.VIJAYAN
S/O.LATE KUNHIRAMAN NAMBIAR-673 101.
118. M.K.VIMALA
D/O., LATE KUNHIRAMAN NAMBIAR, KUNIYIL HOUSE
IKKATIL P.O., VATAKARA-673 101.
119. M.K.GIRIJA
D/O.LATE KUNHIRAMAN NAMBIAR, THAZHETHETTATHI
SREENILAYAM, PUTHUPPANAM P.O., VATAKARA.
120. M.K.SYAMALA
D/O.LATE KUNHIRAMAN NAMBIAR, PORANDAYIL HOUSE, PONMERI
KARAMON, VILLIAPPALLY, VATAKARA.
121. M.K.SASEENDRAN
S/O.LATE KUNHIRAMAN NAMBIAR, P.B.NO.11282
MUMBAI (UAE), PIN-673 101.

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122. M.K.VINODAN
S/O.LATE KUNHIRAMAN NAMBIAR, MARAMKANDIYIL HOUSE
KAKKATTIL P.O., VADAKARA-01.
123. RAMAKRISHNAN K.
KOCHERI HOUSE, VILLIAPPALLY P.O.
VATAKARA TALUK-673 101.
124. RAHDA K.
AMBATTUKUNNUMMEL HOSUE, MAILOTH P.O., THOTTIPPALAM VIA
VATAKARA TALUK-673 101.
125. REMANI
VENGERI HOUSE, KAINATTY P.O., CHENNAMANGALAM
CHORODE, VATAKARA TALUK-673 101.
126. VENUGOPALAN
KOCHERI HOUSE, VILLIAPPALLY P.O.
VATAKARA TALUK-673 101.
127. PRASANNAKUMARI K.
SURABHI HOUSE, CHEMMARATHOOR, VATAKARA TALUK-673 101.
128. RADHAKRISHNAN K.
KOCHERI HOUSE, VILLIAPPALLY P.O.
VATAKARA TALUK-673 101.
129. CHANGAKANDYIL THAZHEKUNIYIL DAMODARAN
KULANGARATH, KAKKATTIL P.O., VATAKARA TALUK-673 101.
130. THAZATHARAMMAL DEVI
KULANGARATH, KAKKATTIL P.O., VATAKARA TALUK-673 101.
131. PUTHANPURAKKAL NARAYANI
KULANGARATH, KAKKATTIL P.O., VATAKARA TALUK-673 101.
132. VASU K.
THIRUVONAM HOUSE, NARASIMHAPURAM P.O., KANCHIKODE WEST
PALAKKAD DISTRICT-678 621.
133. SASIDHARAN
THAZHETHARAMMAL, KULANGARATH, KAKKATTIL P.O.
VATAKARA TALUK-673 101.
134. SREEDHARAN M.K.
S/O.KALLIANI AMMA (LATE), MELESOOTHRAYIKKAL HOUSE
RAMANATTUKARA P.O., FEROKE-673 101.
135. RAVEENDRAN M.K.
POOVARACHALIL HOUSE, KOOTHALI P.O., PERAMBRA
KOYILADY TALUK-673 101.
136. SAJEEVAN M.K.
POOVARACHALIL HOUSE, KOOTHALI P.O., PERAMBRA
KOYILADY TALUK-673 101.

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137. SHEEJA M.K.

**KOYLOTHUMTHARA HOUSE, MOILOTHUMTHARA P.O.
THOTTILPALAM, VATAKARA TALUK-673 101.**

138. MOOSA

**S/O.ABDULLA, MAILOTH HOUSE, NADAPURAM AMSOM DESOM
VATAKARA TALUK.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 29-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 TRUE COPY OF SALE DEED NO 2129/2009 OF KAKKATTIL SRO

EXHIBIT P2 TRUE COPY OF SALE DEED NO 2130/2009 OF KAKKATTIL SRO

EXHIBIT P3 TRUE COPY OF SALE DEED NO 2131/2009 OF KAKKATTIL SRO

EXHIBIT P4 TRUE COPY OF ORDER DATED 22-09-2015 IN E.P 28/1982 IN O.S 37/1957 OF SUB COURT, VATAKARA

EXHIBIT P5 TRUE COPY OF PROCEEDINGS IN E.P 28/1972 IN O.S 37/1957 OF SUB COURT, VATAKARA

EXHIBIT P6 TRUE COPY OF INTIMATION NO RC-CA-1196/2015 DATED 30-09-2015 SENT BY THE SHERISTADAR OF SUB COURT, VATAKARA TO P.DIVAKARAN, ADVOCATE

RESPONDENT(S)' EXHIBITS

NIL

R.AV

//TRUE COPY//

PA TO JUDGE

K.ABRAHAM MATHEW, J

O.P.(C).NO.2612 OF 2015

Dated this the 29th day of October 2015

J U D G M E N T

Petitioner is the 93rd respondent in EP.28 of 1982. The decree is for partition. The court has ordered delivery of the property to the petitioner in the EP. The prayer in this O.P is to set aside the delivery order and stay further proceedings in the execution petition. The ground stated is that all the documents relating to the case are missing from the court and delivery cannot be effected since the property cannot be identified.

2. Heard.

3. I have perused Ext.P6 intimation given by the court to the advocate concerned. In it, it is stated that the final decree application is missing. The officer concerned applied for several documents relating to the final decree. It appears that the court could not comply with the request because final decree application is missing. There is no mention that any other document is missing. So final decree is available in this court. Moreover, a copy of it will be available in the office of the Sub Registrar. The

argument of the learned counsel that there is no means to identify the property sought to be delivered cannot be accepted.

4. It was also submitted that the prayer in the EP is to execute the decree dated 17.11.1970, but there is a modified decree passed on 20.11.1971. But the court is aware of it which is seen from Ext.P6 intimation. The intimation specifically mentions the modified final decree dated 20.11.1971. So I hope that the court will ensure that it is in accordance with the modified decree the delivery will be effected.

With the above observation this O.P is disposed of.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge