

IN THE COURT OF THE MUNSIFF-MAGISTRATE, PAYYOLI

Present :- Smt. Indu. P., B.A.,LL.B, Munsiff-Magistrate

Wednesday, the 28th day of March, 2018
7th Falgunam, SE- 1939.

ORIGINAL SUIT NO: 01/2018

Between :-

Syamala. C., D/o. Kanaran, Swastham.
54 years, Chethil House, P.O. Kottakkal,
Iringal amsom, Desom, Koyilandy Taluk. Plaintiff.

And:-

1. Narayani. C, D/o. Kanaran, Swastham.
70 years, Chethil House, P.O. Kottakkal,
Iringal amsom, Desom, Koyilandy Taluk
2. Balakrishnan, S/o. Kanaran, Business.
67 years, Chethil House, P.O. Kottakkal,
Iringal amsom, Desom, Koyilandy Taluk Defendant.

This suit coming on this day for hearing before me in the presence of Sri. K.K. Abdurahiman and Smt. Nimya. V. advocates for plaintiff and of Smt. Nrrba. C.M , Advocate for defendants and the court delivered the following:-

J U D G M E N T

Suit for declaration and also for mandatory injunction directing the respondents to execute a rectification document to rectify the defect in partition deed No. 3902/2010 of SRO Payyoli.

2. Plaintiff averments in brief is as follows:- Plaintiff schedule property is obtained to plaintiff as per partition deed No. 3902/2010 of SRO Payyoli. Plaintiff is in absolute possession and enjoyment of plaintiff schedule property. B schedule property is absolutely possessing and enjoying by plaintiff. A mistake had been crept in page 3 of the partition deed No.3902/2010 of SRO as plaintiff is having mental ailment and defendant No.2 is the guardian of plaintiff. In fact plaintiff has no such ailment. She is having some growth and hearing problem by birth only. She is capable of doing her own affairs and has enough capacity to understand the matters. Plaintiff has no objection with regard to the execution of partition deed. Therefore plaintiff is not depending on defendant No.2 or any other person to do the things.

3. The writings in the above partition deed with regard to my mental status adversely affects the legal status of plaintiff and her personality. So that plaintiff is unable to transfer her right or take loan from the bank. Plaintiff came to know about the mistake crept in the partition deed only on 20.09.2017 when she thoroughly checked the deed for approaching bank to take loan. Plaintiff had demanded several times to defendants to rectify the mistake in the above said partition deed. But the defendants did not heed this demand of plaintiff. Hence this suit filed for a declaration as to the legal status and also for a mandatory injunction directing the defendants to execute a rectification document to correct the mistake crept in the above said partition deed.

4. Defendant No.1 and 2 entered appearance and filed written statement by admitting the plaint claim. In view of the conceding statement, I am of the view that plaintiff is entitled to get a decree as prayed for.

In the result, suit is decreed as follows:-

(a) It is hereby declared that plaintiff is not having any mental ailment and is capable of doing her own things and there is no need to appoint a guardian for and on behalf of her.

(b) It is also directed to the defendants by an order of mandatory injunction to execute a rectification deed to rectify the mistake crept in the document No.3902/2010 of SRO, Payyoli.

(c) Plaintiff is entitled to the costs of the suit also.

(Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open Court, this the 28th day of March, 2018).

MUNSIFF.

Witnesses examined on the side of plaintiff

PW1: 22.3.2018 Syamala. C

Plaintiff's Exhibits

A1 21.12.2010 Partition deed No.3902/10 of SRO Payyoli entered
into between Narayani and 2 others.

Witnesses and exhibits on the side of defendants : Nil

MUNSIFF

Fair Judgment in O.S. 1/2018
dated 28.3.2018