



2026:KER:69775

O.P(C)No.1043 of 2026

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

THURSDAY, THE 10TH DAY OF SEPTEMBER 2026 / 19TH BHADRA, 1948

OP(C) NO. 1043 OF 2026

AGAINST THE ORDER DATED *(25.03.2026 IN IA 3/2026) IN OS NO.301 OF 2013 OF MUNSIF COURT, CHITTUR ARISING OUT OF THE ORDER DATED 25.03.2026 IN IA 6/2026 IN OS NO.301 OF 2013 OF MUNSIF COURT, CHITTUR *[AMENDED AS "24.03.2026 IN IA NO.4/2026" AS PER ORDER DATED 26.05.2026 IN I.A.NO.2 OF 2026]

PETITIONERS/RESPONDENT NOS.1 & 13/DEFENDANTS NO.1 & 13:

- 1 BALAN, AGED 81 YEARS, S/O. KUNCHU, RESIDING AT JOSHI BHAVAN, POTHAMPADAM, MUTHALAMADA, CHITTUR TALUK, PALAKKAD DISTRICT, PIN - 678507
- 2 AJAYAGOSH, AGED 43 YEARS, S/O. BALAN, RESIDING AT JOSHI BHAVAN, POTHAMPADAM, MUTHALAMADA, CHITTUR TALUK, PALAKKAD DISTRICT, PIN - 678507

BY ADVS.

SHRI.JACOB SEBASTIAN
SMT.SHAMSEERA. C.ASHRAF
SHRI.WINSTON K.V
SMT.ANU JACOB
SMT.ANJANA KRISHNAN
SHRI.VINCENT C. J.



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RESPONDENTS/PETITIONER & RESPONDENT NOS.2 TO 12/PLAINTIFF &
DEFENDANTS NO.2 TO 12:

- 1 PARAMESWARAN, AGED 73 YEARS
S/O. KUNCHU, RESIDING AT POTHAMPADAM, MUTHALAMADA,
CHITTUR TALUK, PALAKKAD DISTRICT, PIN - 678507
- 2 PADMANABHAN, AGED 79 YEARS
S/O. KUNCHU, POTHAMPADAM, MUTHALAMADA, CHITTUR
TALUK, PALAKKAD DISTRICT, PIN - 678507
- 3 SUBRAHMANIAN, AGED 70 YEARS, S/O. APPUKUTTAN,
RESIDING AT MELAPPURA VEEDU, KANNANUR, PALAKKAD
TALUK, PALAKKAD DISTRICT, PIN - 678702
- 4 RAJAGOPALAN, AGED 69 YEARS
S/O. APPUKUTTAN, RESIDING AT PARUVASSERI,
THENIDUKKU, VADAKKANCHERRY VILLAGE, ALATHUR TALUK,
PALAKKAD DISTRICT, PIN - 678683
- 5 GANDHIKUMAR, AGED 65 YEARS
S/O. APPUKUTTAN, RESIDING AT MELE VEEDU, NAVAKKODE,
KODUNTHIRAPPULLY VILLAGE, PALAKKAD TALUK, PALAKKAD
DISTRICT, PIN - 678004
- 6 AJAYAN, AGED 59 YEARS
S/O. APPUKUTTAN, RESIDING AT MELAPPURA VEEDU,
KANNANUR VILLAGE, PALAKKAD TALUK, PALAKKAD
DISTRICT, PIN - 678702
- 7 SANTHA, AGED 62 YEARS
W/O. GOPALAKRISHNAN, RESIDING AT MELAPPURA VEEDU,
KANNANUR VILLAGE, PALAKKAD TALUK, PALAKKAD
DISTRICT, PIN - 678702
- 8 JINI, AGED 32 YEARS
D/O. GOPALAKRISHNAN, RESIDING AT MELAPPURA VEEDU,
KANNANUR VILLAGE, PALAKKAD TALUK, PALAKKAD
DISTRICT, PIN - 678702
- 9 ABHINAND, AGED 29 YEARS
S/O. GOPALAKRISHNAN, RESIDING AT MELAPPURA VEEDU,



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KANNANUR VILLAGE, PALAKKAD TALUK, PALAKKAD
DISTRICT, PIN - 678702

- 10 LEELAVATHY, AGED 81 YEARS, D/O. KUNCHU, RESIDING AT
 POTHAMPADAM, MUTHALAMADA VILLAGE, CHITTUR TALUK,
 PALAKKAD DISTRICT, PIN - 678507
- 11 RADHA, AGED 82 YEARS
 W/O. N KRISHNAN, RESIDING AT NO. 1/24, PAZHANISWAMY
 2ND STREET, SAI BABA COLONY, K.K. PUTHUR,
 COIMBATORE DISTRICT, TAMIL NADU STATE, PIN - 641038
- 12 ARUNDHATHI, AGED 73 YEARS, W/O. S RAJAN, RESIDING
 AT PUTHUTHAMARAPATTY, OTHAKKADAI, MADURAI DISTRICT,
 TAMIL NADU STATE, PIN - 625107

BY ADVS.
SHRI.M.C.GOPI
SRI.K.MOHANAKANNAN

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
10.09.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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EASWARAN S., J**O.P(C)No.1043 of 2026****Dated this the 10th day of September, 2026****JUDGMENT**

The short point involved in this Original Petition is whether a lawyer for the plaintiff can file an affidavit on behalf of the plaintiff seeking production of documents.

2. In a suit for partition, after the defendant raised a claim seeking the benefit of a particular defence and started to adduce evidence in support of such claim, the learned counsel appearing for the plaintiff produced certain documents on behalf of the plaintiff. The affidavit accompanying the application was sworn to by the lawyer himself. The same was allowed by the trial court on the ground that the relevance and the admissibility of the documents could be considered at the appropriate stage of the proceedings. The order is impugned in the Original Petition.

3. Heard Sri.Jacob Sebastian, learned counsel appearing for the petitioners and Sri.M.C.Gopi learned counsel appearing for the 1st respondent.



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4. No doubt, a plaintiff is entitled to produce additional documents, provided that the conditions prescribed under the relevant rules are satisfied. The plaintiff will have to satisfy the relevancy of the documents and also its admissibility in the nature of the dispute involved in the suit. It is beyond comprehension as to how the plaintiff's counsel could have sworn an affidavit on behalf of the plaintiff seeking permission to produce additional documents. Such an affidavit is certainly beyond the authority conferred upon the learned counsel concerned under the provisions of the Advocates Act.

5. In ***Abdul Kareem v. State of Kerala [2006(2) KLT 408]***, this Court, while considering the scope of an affidavit filed by a lawyer, has succinctly held that an affidavit sworn by counsel can be accepted only where the facts disclosed therein are within the personal knowledge of the lawyer concerned, such as in an application for condonation of delay.

6. In the present case, on a perusal of the affidavit accompanying the application, it is evident that the statements contained therein are beyond the personal knowledge of the learned counsel concerned.



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7. In such circumstances, the court below seriously erred in accepting the affidavit as well as in entertaining the application for protection of law. In view of the above, Ext.P7 order is required to be set aside.

8. Accordingly, the Original Petition is allowed. Ext.P7 order is set aside and consequently, I.A.Nos.4 and 6 of 2026 in O.S.No.301 of 2013 on the files of Munsiff Court, Chittur will stand dismissed. The plaintiffs are at liberty to file an appropriate application, supported by an affidavit sworn to by them, seeking production of the documents. In such an event, it will be open to the Court to consider the application in accordance with law. All other contentions are left open to be agitated in appropriate proceedings.

Sd/-

**EASWARAN S.
JUDGE**

vgd



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APPENDIX OF OP(C) NO. 1043 OF 2026PETITIONERS' EXHIBITS

EXHIBIT-P1	A TRUE COPY OF THE PLAINT DATED 21.08.2013 IN O.S. NO. 301/2013 OF THE COURT OF THE MUNSIF OF CHITTUR.
EXHIBIT-P2	A TRUE COPY OF THE WRITTEN STATEMENT OF DEFENDANTS 1 AND 13 IN O.S. NO. 301/2013 OF THE COURT OF THE MUNSIF OF CHITTUR DATED 16.11.2013.
EXHIBIT-P3	A TRUE COPY OF THE I.A. NO. 3/2026 IN O.S. NO. 301/2013 OF THE COURT OF THE MUNSIF OF CHITTUR DATED 07.03.2026.
EXHIBIT-P4	A TRUE COPY OF THE COUNTER STATEMENT OF THE PETITIONERS IN I.A. NO. 3/2026 IN O.S. NO. 301/2013 OF THE COURT OF THE MUNSIF OF CHITTUR DATED 11.03.2026.
EXHIBIT-P5	A TRUE COPY OF THE I.A. NO. 6/2026 IN O.S. NO. 301/2013 OF THE COURT OF THE MUNSIF OF CHITTUR DATED 16.03.2026.
EXHIBIT-P6	A TRUE COPY OF THE COUNTER STATEMENT OF THE PETITIONERS IN I.A. NO. 6/2026 IN O.S. NO. 301/2013 OF THE COURT OF THE MUNSIF OF CHITTUR DATED 17.03.2026.
EXHIBIT-P7	A TRUE COPY OF THE ORDER DATED 24.03.2026 IN I.A. NO. 4/2026 & I.A. NO. 6/2026 IN O.S. NO. 301/2013 OF THE COURT OF THE MUNSIF OF CHITTUR.