

**Mannat Devi, vs Puthenvalappil Devu,**

**Mannat Devi, vs Puthenvalappil Devu,**

**SooperKanoon Citation :** [sooperkanoon.com/1440560](https://sooperkanoon.com/1440560)

**Court :** Kerala

**Decided On :** Nov-22-2022

**Judge :** Honourable Mr. Justice P.Somarajan

**Appeal No. :** AS/875/1998

**Appellant :** Mannat Devi,

**Respondent :** Puthenvalappil Devu,

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN  
TUESDAY, THE 22nd DAY OF NOVEMBER 2022 / 1ST  
AGRAHAYANA, 1944 AS NO. 875 OF 1998 (C) AGAINST THE  
JUDGMENT & DECREE DATED 30.03.1998 IN OS No.132/1994 OF  
SUB COURT, VADAKARA

APPELLANTS/DEFENDANTS 15 & 17 (TRANSPOSED AS 3rd AND 4th  
PLAINTIFFS) AND DEFENDANT 16: 1 MANNAT DEVI, DARMADAM  
AMSOM DESOM, THALASSERY TALUK (DIED) 2 MANNAT BINDHU  
BHASKARAN, B.J. 3, GOVERNMENT QUARTER LANSPET,  
PONDICHERI. 3 MANNAT JANAKI, C/o RANJITH VELANDI, P.B. NO.

772, SHARJAH. (DIED) ADDL.A4 M.K.RAJENDRAN, THUSHARAM, NEAR KALAMANDIRAM, MELUR-670 661. ADDL.A5 RETHI K, KRISHNA, NEAR DHARMADAM POST OFFICE, P.O.DHARMADAM-670 106. THIRUVANANTHAPURAM ADDL.A6 PRASANNA K, KAMBIL, KONDOOTHU HOUSE, NEAR ANGANVADI, P.O DHARMADAM-670 106. ADDL.A7 JAYA DINAKARAN, UMMAL QUAIN, POST BOX NO.475, UNITED ARAB EMIRATES.

(LEGAL HEIRS OF DECEASED 1ST APPELLANT ARE IMPEADED AS ADDITIONAL APPELLANTS 4 TO 7 VIDE ORDER DATED 6.3.17 IN I.A.281/17)

ADDL.A8 SHOBANA K.O., D/o LATE MANNAT JANAKI, GURUCHARAN, ORUPURATH, BEHIND MANDOLA TEMPLE, AZHIYUR- 673309. ADDL.A9 ARUN A.P., S/o LATE RAJI, RAJAMMA NIVAS, NEAR MAHE INDOOR STADIUM, THATHAKULAM, MAHE ADDL.A10 ANUP.A.P., S/o LATE RAJI, RAJAMMA NIVAS, NEAR MAHE INDOOR STADIUM, THATHAKULAM, MAHE AS No.875 of 1998 2 ADDL.A11 AMRITHA.A.P., D/o LATE RAJI, RAJAMMA NIVAS, NEAR MAHE INDOOR STADIUM, THATHAKULAM, MAHE.

(LEGAL HEIRS OF DECEASED 3RD APPELLANT ARE IMPEADED AS ADDITIONAL APPELLANTS A8 TO A11 VIDE ORDER DATED

BY ADVS. SRI.N.L.KRISHNAMOORTHY SRI.K.LAKSHMINARAYANAN SMT.SATHYASHREE PRIYA EASWARAN RESPONDENTS/PLAINTIFFS 1 & 2 (TRANPOSED AS 18th AND 19th DEFENDANTS) AND DEFENDANTS 1 TO 14: 1 PUTHANVALAPPIL DEVU, AZHIYOOR AMSOM, CHOMBAL DESOM, VADAKARA TALUK. (DIED) 2 BHASKARAN, REENA NIVAS, KANDIYIL THAZHA, (DIED) AZHIYUR AMSOM, CHOMBAL DESOM, VADAKARA TALUK.

3 P.V. KUNHIKANNAN, CHERUMADATHIL, NO.III RAILWAY GATE, AZHIYOOR AMSOM, DESOM, VADAKARA TALUK. (DIED) 4 CHEROOTTY ALIAS LEELA, KUTTIPPUNAM KUNIYIL VEEDU, VIYYUR AMSOM, PULIYANCHERI DESOM, P.O. KOLLAM, KOYILANDY TALUK. (DIED). 5 P.V. MUKUNDAN, REETHA NILAYAM, NEAR KUNHIPALLY, AZHIYOOR AMSOM, CHOMBAL DESOM,

VADAKARA TALUK. (DIED) 6 P.V. KRISHNAN, ARATHI, MAHE COMMUNE, P.O. MAHE. 7 P.V. VASANTHA, W/o LATE K.K. BALAN, THAZHA PUTHUR HOUSE, PAYANTHONG, KUTTIPRAM AMSOM, DESOM, P.O. KALLACHI. 8 K.K. DEVARAJ, BOMBAY TEENCHALLENGE, K.IV GROUP INDUSTRIES, SUN MILL COMPOUND, LOWER PAREL, BOMBAY -400013. 9 SWARNALATHA, PARVATHY GOVIND NIVAS, NEAR G.G.H.S., P.O. MAHE. 10 P.V. PUSHPAN, C/o K.K. DEVARAJ, BOMBAY TEEN CHALLENGE, K. IV INDUSTRIES, SUN MILL COMPOUND, LOWER PAREL, BOMBAY-400013. AS No.875 of 1998 3 11 PUTHANVALAPPIL USHA, AZHIYOOR AMSOM, (DIED) CHOMBAL DESOM, NEAR THEEPPATTI CO., P.O. CHOMBALA, VADAKARA TALUK. 12 PUTHANVALAPPIL JANU, AZHIYOOR AMSOM, (DIED) CHOMBAL DESOM, NEAR THEEPPATTI CO., VADAKARA TALUK.

(IT IS RECORDED THAT 12TH RESPONDENT DIED AND THE RESPONDENTS R13 TO R16 ALREADY IN THE PARTY ARRAY ARE HER LEGAL REPRESENTATIVES VIDE ORDER DATED 06/03/2017 IN MEMO DATED 03/02/2017 IN CF.NO.758/2017)

13 PUTHANVALAPPIL SUDHAKARAN, AZHIYOOR AMSOM, CHOMBAL DESOM, NEAR THEEPPATTI CO., VADAKARA TALUK. 14 PUTHANVALAPPIL PRADEEPAN, AZHIYOOR AMSOM, CHOMBAL DESOM, NEAR THEEPPATTI CO., VADAKARA TALUK. 15 PUTHANVALAPPIL VINODAN, AZHIYOOR AMSOM, CHOMBAL DESOM, NEAR THEEPPATTI CO., VADAKARA TALUK. 16 PUTHANVALAPPIL SANTHOSHAN, AZHIYOOR AMSOM, CHOMBAL DESOM, NEAR THEEPPATTI CO., VADAKARA TALUK. ADDL.R17 PURUSHOTHAMAN, S/o LATE PUTHANVALAPPIL DEVU, DEVIKA, CHOMBAL AMSOM, VATAKARA TALUK.

(LEGAL HEIR OF DECEASED IST RESPONDENT IS IMPLEADED AS ADDITIONAL 17TH RESPONDENT VIDE ORDER DATED 18.7.17 IN I.A.708/17.

ADDL.R18 PUSHPA, D/o LATE P.V.KUNHIKANNAN, CHERUMADATHIL, NO.III, RAILWAY GATE, AZHIYOOR AMSOM DESOM, (P.O) KOLLAM, KOYILANDY TALUK-673 307. ADDL.R19 DINESH, S/o LATE P.V.KUNHIKANNAN, CHERUMADATHIL, (DIED) NO.III, RAILWAY GATE, AZHIYOOR AMSOM

DESOM, (P.O) KOLLAM, KOYILANDY TALUK-673 307. ADDL.R20 SWARNALATHA, D/o LATE P.V.KUNHIKANNAN, CHERUMADATHIL, NO.III, RAILWAY GATE, AZHIYOOR AMSOM DESOM, (P.O) KOLLAM, KOYILANDY TALUK-673 307.

(LEGAL HEIRS OF DECEASED 3RD RESPONDENT ARE IMPEADED AS ADDITIONAL RESPONDENTS 18 TO 20 VIDE ORDER DATED 18.7.2017 IN I.A.706/17).

AS No.875 of 1998 4 ADDL.R21 AJITHA, D/o LATE CHERROTY @ LEELA, KUTTIPURAM KUNIYIL VEEDU, VIYYUR AMSOM, PULIYANCHERI DESOM, (P.O) KOLLAM, KOYILANDY TALUK-673 307. ADDL.R22 GIRIJA, D/o LATE CHERROTY @ LEELA, KUTTIPURAM KUNIYIL VEEDU, VIYYUR AMSOM, PULIYANCHERI DESOM, (P.O) KOLLAM, KOYILANDY TALUK-673 307. ADDL.R23 GIREESHAN, S/o LATE CHERROTY @ LEELA, KUTTIPURAM KUNIYIL VEEDU, VIYYUR AMSOM, PULIYANCHERI DESOM, (P.O) KOLLAM, KOYILANDY TALUK-673 307. ADDL.R24 UNNI, S/o LATE CHERROTY @ LEELA, KUTTIPURAM KUNIYIL VEEDU, VIYYUR AMSOM, PULIYANCHERI DESOM, (P.O) KOLLAM, KOYILANDY TALUK-673 307.

(LEGAL HEIRS OF DECEASED 4TH RESPONDENT ARE IMPEADED AS ADDITIONAL RESPONDENTS 21 TO 24 VIDE ORDER DATED 18.7.17 IN IA. 710/17. ADDL.R25 RAJALAKSHMI, W/o LATE P.V.MUKUNDAN, REETHA NILAYAM, NEAR KUNHIPALLY, AZHIYOOR AMSOM, CHOMBAL DESOM, VATAKARA TALUK. ADDL.R26 REETHA, D/o LATE P.V.MUKUNDAN, REETHA NILAYAM, NEAR KUNHIPALLY, AZHIYOOR AMSOM, CHOMBAL DESOM, VATAKARA TALUK. (LEGAL HEIRS OF DECEASED 5TH RESPONDENT ARE IMPEADED AS ADDITIONAL RESPONDENTS 25 AND 26 VIDE ORDER DATED 8.12.17 IN I.A.2030/17)

ADDL.R27 PUTHANVALAPPIL JAYADEVAN, PUTHANVALAPPIL, AZHIYUR AMSOM, CHOMBAL DESOM, NEAR THEEPATTI P.O., P.O.CHOMBALA, VATAKARA TALUK, PIN - 673 308 ADDL.R28 PUTHANVALAPPIL VASANTHA, PUTHANVALAPPIL, AZHIYUR AMSOM, CHOMBAL DESOM, NEAR THEEPATTI P.O., P.O.CHOMBALA, VATAKARA TALUK-673308 ADDL.R29

PUTHANVALAPPIL DEVARAJAN, PUTHANVALAPPIL, AZHIYUR AMSOM, CHOMBAL DESOM, NEAR THEEPATTI P.O., P.O.CHOMBALA, VATAKARA TALUK-673308 AS No.875 of 1998 5 ADDL.R30 PUTHANVALAPPIL SWARNA, PUTHANVALAPPIL, AZHIYUR AMSOM, CHOMBAL DESOM, NEAR THEEPATTI P.O., P.O.CHOMBALA, VATAKARA TALUK-673308 ADDL.R31 PUTHANVALAPPIL PUSHPARAJAN, PUTHANVALAPPIL, AZHIYUR AMSOM, CHOMBAL DESOM, NEAR THEEPATTI P.O., P.O.CHOMBALA, VATAKARA TALUK-673308 ADDL.R32 KAMALA, W/o LATE BHASKARAN, AGED YEARS, REENA NIVAS, KANDIYIL THAZHA, AZHIYUR AMSOM, CHOMBAL DESOM, VATAKARA TALUK. ADDL.R33 RADHIKA, D/o LATE BHASKARAN, AGED YEARS, REENA NIVAS, KANDIYIL THAZHA, AZHIYUR AMSOM, CHOMBAL DESOM, VATAKARA TALUK. ADDL.R34 REENA, D/o LATE BHASKARAN, AGED YEARS, REENA NIVAS, KANDIYIL THAZHA, AZHIYUR AMSOM, CHOMBAL DESOM, VATAKARA TALUK. ADDL.R35 USHA, D/o LATE BHASKARAN, AGED YEARS, REENA NIVAS, KANDIYIL THAZHA, AZHIYUR AMSOM, CHOMBAL DESOM, VATAKARA TALUK. ADDL.R36 SHEREENA, D/o LATE BHASKARAN, AGED YEARS, REENA NIVAS, KANDIYIL THAZHA, AZHIYUR AMSOM, CHOMBAL DESOM, VATAKARA TALUK.

(THE LRs OF DECEASED 2nd AND 11th RESPONDENT ARE IMPEADED AS ADDL.RESPONDENTS 27 TO 36 VIDE ORDER DATED 30.09.2019 IN IA 01/18 AND 01/19) ADDL.R37 ROOPA, W/o LATE DINESH, AGED 56 YEAS, 'CHERUMADATHIL', No.111, RAILWAY GATE, AZHIYOOR AMSOM DESOM, P.O. KOLLAM, KOYILANDY TALUK - 673 305. ADDL.R38 RUTHIN, S/o LATE DINESH, AGED 29 YEAS, 'CHERUMADATHIL', No.111, RAILWAY GATE, AZHIYOOR AMSOM DESOM, P.O. KOLLAM, KOYILANDY TALUK - 673 305. AS No.875 of 1998 6 ADDL.R39 DEEKSHITH, S/o LATE DINESH, AGED 27 YEAS, 'CHERUMADATHIL', No.111, RAILWAY GATE, AZHIYOOR AMSOM DESOM, P.O. KOLLAM, KOYILANDY TALUK - 673 305. (THE LEGAL HEIRS OF DECEASED R19 ARE IMPEADED AS ADDITIONAL RESPONDENTS 37 TO 39 VIDE ORDER DATED 08.11.2022 IN IA 1/2022)

BY ADVS. SRI.K.P.DANDAPANI (SR) SRI.MILLU DANDAPANI SRI.R.PARTHASARATHY THIS APPEAL SUITS HAVING COME UP FOR

HEARING ON 22.11.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: AS No.875 of 1998 7

## **JUDGMENT**

It is fairly conceded by the learned counsel for the appellants that the remand by the Apex Court is for denovo consideration regarding entitlement under Section 16 of the Hindu Marriage Act. It is well settled that any illegitimate son born in the wedlock which was found to be illegal or defective or void on any ground would be entitled to succession only with respect to the self acquired property of the deceased father and not with respect to any family property held by him either by succession or otherwise. The legal position is very much settled by the Apex Court in *Neelamma and Others v. Sarojamma and Others* [(2006) 9 SCC 612]. Regarding the additional defendants 15 and 17 are concerned, the marriage of their parents i.e. Mannan with his second wife Kalliani, was solemnized early in the year 1960s and as such, no documentary evidence is available to prove the alleged solemnization of marriage. The school register produced clearly indicates the paternity of the child. The question as to how far the civil court can go AS No.875 of 1998 8 into the question of solemnization of marriage under Section 16 of the Hindu Marriage Act was taken up and considered by this Court in *Thachambath Padmini Amma v. Kizhakke Thachambath Karthiyani Amma and Others* [2019 (5) KHC 225]. By virtue of amendment of Section 16 of the Hindu Marriage Act in 1976, benefit is extended to all legitimate children born out of wedlock even in the absence of decree of nullity of marriage or void marriage. If the marriage is ancient and old not capable of proving the same by direct evidence, either documentary or oral, presumption based on long cohabitation can be safely applied when there is evidence to show marital cohabitation. As discussed earlier, in the school register, the paternity of the children was made mentioned and this would discharge the initial burden. Then it is upon the opposite party to prove the contrary by evidence. Paragraphs 7, 10 and 11 of the said judgment are extracted below for reference:

7. All these would show that Section 16 is really a special provision and an incidence attached to the decree of nullity of marriage or a void marriage. But by

an amendment the benefit was extended to all illegitimate children born out of wedlock even in the absence of such a decree. It is really an extension AS No.875 of 1998 9

of the benefit conferred under Section 16 of the Hindu Marriage Act, 1955 to legitimize children even in the absence of a decree of nullity of marriage or void marriage. But Section 16 of the said Act by its nature is principally an incidence attached to the decree of nullity of marriage or void marriage and the extension of benefit even in the absence of a decree of nullity will not change its original character as an incidence attached to a decree of nullity of marriage or void marriage as it is an additional measure incorporated by amendment so as to protect the interests of illegitimate children in the absence of such a decree. The reason is well evident that there cannot be an annulment of marriage after the death of one of the spouse and it would virtually deny the benefit conferred under Section 16 of the Act to the children born, in the absence of a decree of annulment of marriage during the life time of the spouse. It will not change the very principle under Section 16 of the Act as a consequence to a decree of nullity of marriage or void marriage under the provisions of Hindu Marriage Act, 1955. In the absence of a decree of nullity of marriage or void marriage, the civil court can go into the question of nullity or voidability of the marriage when the question of legitimacy and benefit conferred under Section 16 of the Hindu Marriage Act came up for consideration. The question of solemnization of marriage would arise on two occasions that (1) at the time of adjudication of validity of the marriage either under Section 11 or under Section 12 of Hindu Marriage Act by the competent court under that Act or (2) at the time when the matter came up as a dispute in a civil suit without having an adjudication in the matter of nullity or voidability of the marriage by a decree. In the former case, when there is a decree of nullity of marriage or void marriage, there would not be any necessity to further plead or prove the solemnization

of marriage. But in the later case, when it came up before a civil court as part of civil dispute, it should be understood in relation to the amendment by substitution of Section 16 de-linking Section 11 of the Act, by which certain illegitimate children who would fall outside the parental provision, Section 11, were brought under the purview of Section 16 as legitimate children so that they can inherit the property of their parents. In other words, when there is a decree of nullity of marriage or void marriage, the civil court will not have jurisdiction to deal with the question of solemnization of marriage or its validity. It is in the absence of such a decree, the civil court can go into that question only for the purpose of extending the benefit conferred on the illegitimate children by virtue of amended Section 16 of the Hindu Marriage Act, 1955.

.....

10. In a subsequent decision the Apex Court

( Reema Aggarwal v. Anupam and others [(2004) (3) SCC 199]) dealing with the liability which can be fastened under Sections 494 and 498-A IPC had the occasion to consider the importance of long cohabitation and its consequences. The relevant portion of paragraph 9 of the

**judgment is extracted below for reference :**

9. The marriages contracted between Hindus are now statutorily made monogamous. A sanctity has been attributed to the first marriage as being that which was contracted from a sense of duty and not merely for personal gratification. When the fact of celebration of marriage is established it will be presumed in the absence of evidence to the contrary that all the rites and ceremonies to constitute a valid marriage have been gone through. As was said

as long as back in 1869 "when once you get to this, viz., that there was a marriage in fact, there would be a presumption in favour of there being a marriage in law." (See *Inderun Valungypooly Taver vs. Ramaswamy Pandia Talaver*, Moo IA p. 158 (1869 (13) MIA 141). So also where a man and woman have been proved to have lived together as husband and wife, the law will presume, until contrary be clearly proved, that they were living together in consequence of a valid marriage and not in a state of concubinage. (See *Sastry Velaider vs. Sembicutty* (1881 (6) AC 364) following *De Thoren vs. Attorney General* (1876 (1) AC 686) and *Piers vs. Piers* (1849

(2) HLC 331). Where a marriage is accepted as valid

by relations, friends and others for a long time it cannot be declared as invalid. In *Bhaurao Shankar Lokhande v. State of Maharashtra* (AIR 1965 SC 1564 , para 3), it was observed by this Court. The bare fact that man and woman live as husband and wife it does not at any rate normally give them the status of husband and wife even though they may hold themselves before the society as husband and wife and the society treats them as husband and wife. These observations were cited with approval in *Surjit Kaur vs. Garja Singh* (AIR 1994 SC 135). At first blush, it would seem that these observations run counter to the long catena of decisions noted above. But on closer examination of the facts of those cases it is clear that this Court did not differ from the views expressed in the earlier cases. In *Lokhandes case* (supra), this Court was dealing with a case of prosecution for bigamy.

11. From the discussion, it is clear that the rule of evidence that can be applied in fastening a criminal liability apart from a civil liability though one and AS No.875 of 1998 12 the same, there are differences in its application. In

**order to fasten criminal liability, strict proof is**

required, but in the matter of civil liability, it can be based even on preponderance of probabilities. Strict proof of marital status is required to fasten criminal liability for any marital offence, but such requirement cannot be insisted in the matter of civil liability. Existence of long cohabitation in the absence of contra evidence would give rise a presumption that they were living together in consequence of a valid marriage and Section 16 of the Act cannot be applied when the marriage was solemnized long back and became incapable of ascertainment due to long lapse of time and when there is material to show the paternity, in the absence of contra evidence, the same can be accepted. It is upon the person who disputes the legitimacy of the child to adduce contra evidence so as to bring the matter within the purview of Section 16 of the Act. But the legal position may be different, when the person claims legitimacy based on Section 16 of Hindu Marriage Act, necessarily the burden to prove solemnization of marriage in the absence of a decree of annulment or void marriage will be on that person. It should be understood that Section 16 of the Act covers certain areas which would not come under the purview of presumption of marriage governed by the general rule of evidence. If the marriage is ancient and old, not capable of proving the same by direct evidence either documentary or oral, presumption based on long cohabitation for a valid marriage can be safely applied, wherein there is no scope for any application of Section 16 of Hindu Marriage Act, 1955, unless the person who disputes the marriage discharges his initial burden by contra evidence regarding non-existence of a valid marriage. In other words, it can be applied only when there is evidence to show nullity of marriage or voidability of marriage on the ground of existence of an

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earlier marriage or such other ground and the said burden initially lies on the person who disputes the validity of the marriage on account of any such ground. There can be a clear distinction between the cases wherein

the special provision-Section 16 of Hindu Marriage Act, 1955 can be applied from that of cases wherein presumption of marriage could be possible by long cohabitation and oldage of the marriage. The provision, Section 112 of the Indian Evidence Act and the presumption available thereunder, intended to promote legitimacy between the offsprings and not to bastardize is relevant at this juncture. The law had always leaned in favour of the innocent child from being bastardize, except in exceptional circumstances and the principal aim under Section 112 of the Evidence Act and Section 16 of Hindu Marriage Act,1955 is to protect the interest of an innocent child from being bastardized and excluded in inheriting the asset of his parents. If a man and woman proved to have been having cohabitation over a long period of time, that cohabitation would produce a presumption favouring their marriage status and in such cases Section 16 of the Act cannot be applied, unless there is contra evidence in support of the voidability or nullity of the marriage solemnized or any claim was raised by any illegitimate child under that section. Production of evidence showing paternity would be a sufficient piece of evidence to show the legal status of parents and in such situation, a mere denial of marriage or marital relationship alone would not attract Section 16 of Hindu Marriage Act. Of course, the legal position would be different when the plaintiff claims a benefit under Section 16 of the Act and in the absence of a decree of annulment of marriage or void marriage, he has to prove the solemnization of marriage and the initial burden lies on him. What is dealt with by the Division Bench of this court in a reference in Jayachandran's case (supra) is the necessity to plead

AS No.875 of 1998 14 and prove solemnization of marriage either in a case of void or voidable marriage or nullity so as to attract Section 16 of the Hindu Marriage Act, 1955 and it will not render any assistance unless the claim or the defence would fall under the purview of Section 16 of the said Act.

The subject matter of this suit, 'A' schedule property, was obtained by Mannan in the year 1952 from one Neeli under sale deed No.571/1952. Hence, it is a self acquired property over which the defendants 15 and 17 are entitled to equal share

along with the other legal heirs. There is no dispute regarding the entitlement of respective shares. The counsel for respondents 1, 2, 5, 25, 26, 37, 38 and 39 filed a memo stating that they are not interested to contest the appeal. Hence, the preliminary decree passed by the trial court will stand modified passing a preliminary decree directing to divide 'A' schedule property into 12 equal shares by metes and bounds, out of which, the plaintiffs Nos. 3 and 4 (transposed defendants 15 and 17) and defendant No.16 are entitled to one share each. The original plaintiffs Devu and Bhaskaran and defendants 1 to 4 are entitled to one share each, defendants 5 to 9 are entitled to one share jointly and defendant Nos.10 to 14 are entitled to one AS No.875 of 1998 15 share jointly and one share of Matha will go jointly to original plaintiffs Devu and Bhaskaran and defendants 1 to 14. It is also clarified that the children of Matha would be eligible to seek allotment as regards Matha's share in final decree proceedings, if they so desire. The preliminary decree passed by the trial court is modified to the said effect. Appeal is allowed accordingly. No costs. Sd/- P.SOMARAJAN JUDGE DMR/-

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