

**IN THE COURT OF THE ADDITIONAL MUNSIFF - I,  
KOZHIKODE.**

**Present:- Smt. Shabeena.M., Additional Munsiff-I,  
Tuesday, the 2<sup>nd</sup> day of July, 2024  
OS.506/2022**

**Between:-**

|                                                                                                                                              |             |
|----------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| Pooleri Rajakumar, aged 58 years,<br>S/o. Balakrishnan Nambiar, Ayilyam, Eranhikkal<br>PO, Elathur, Thalakulathur amsom desom,<br>Kozhikode. | Petitioner/ |
|----------------------------------------------------------------------------------------------------------------------------------------------|-------------|

**And**

- |                                                                                                                                                       |            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 1 Jyothilal, aged about 50 years, S/o. Rajan,<br>Uppanath , Valayannur, Puthukkad Kadavu,<br>PO.Eranhikkal, Thalakkulathur amsom,desom,<br>Kozhikode. | Defendants |
| 2. Shyju, aged about 46 years, S/o. Rajan,<br>Uppanath, Valayannur, Puthukkad Kadavu,<br>PO.Eranhikkal, Thalakkulathur amsom desom.<br>Kozhikode.     |            |

This petition is coming on 20<sup>th</sup> day of June 2024, for final hearing before me in the presence of Sri. P. Muhammed Haneef , advocate for plaintiff and the defendants called absent set exparte and having stood over to this day for consideration and this court delivered the following:-

**JUDGMENT**

Suit is one for permanent prohibitory injunction.

2. The averments in the plaint are as follows: Plaintiff is the absolute owner in possession of plaint schedule property, having been obtained as per the gift deed No.1826/1991 of SRO West

hill, executed by his mother. The plaintiff is in absolute possession of plaint schedule property and he has started the construction of house, well and compound wall after obtaining plan and permit from authorities of Thalakkulathur Grama panchayath. Apart from the plaintiff nobody has any manner of right over plaint schedule property. Plaintiff is keeping possession of the plaint scheule property without any interruption after paying land tax for the same. Defendants are the children of brother of plaintiff's mother. Plaintiff's mother namely Lekshmi acquired right over plaint schedule property as per partition deed having No.348/1963 of SRO West hill. In the said document a life interest was created in favour of her mother Kuttooli. After the death of Kuttooli, mother of plaintiff filed a suit for partition against the father of defendant and others as OS45/1981 and it was decreed in her favour. Thereafter the plaint schedule property was delivered to the mother of plaintiff as per the order in EP 151/1991. Since then she had been in possession of plaint schedule property till she had executed gift deed infavour of plaintiff. Defendants have no manner of right to trespass into the plaint schedule property or to obstruct the construction made in the plaint schedule property. However on 17.12.2022 defendants threatened the plaintiff that they will trespass into the plaint

schedule property and obstruct the constructions in the plaint schedule property. Plaintiff apprehends that the defendants may at any time trespass into the plaint schedule property and obstruct the constructions. In the above said circumstances the suit has been filed.

3. Upon receiving summons defendants appeared through counsel. However they had not filed written statement and they have not turned up to oppose the suit claim when the case was posted for evidence. Therefore they were set exparte.

4. When the plaintiff was called up to prove his case, he himself was examined as PW1 and Exts.A1 to A5 were marked.

5. I have heard the learned counsel for the plaintiff.

6. PW1 filed proof affidavit in lieu of the chief examination reiterating the matters put forth in the plaint. He has produced Exts.A1 to A5 documents to support his contentions in the plaint. The evidence tendered by PW1 remains unchallenged. There is no contra evidence available to disbelieve the version of PW1. As such I find that plaintiff has succeeded to prove his case and therefore he is entitled to a decree as prayed for. Costs of the suit shall follow the event.

In the result, the suit is decreed with costs as follows:

1) The defendants and their men are restrained by way of permanent prohibitory injunction from trespassing into the plaint schedule property and from committing wastes therein and from obstructing the construction of house, well and compound wall in the plaint schedule property.

2) Plaintiff is entitled to realise the costs of the suit from the defendants.

(Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open Court, this, the 2<sup>nd</sup> day of July, 2024).

Sd/-

**Additional Munsiff-I**

**PLAINTIFFS WITNESS**

PW1 - 10-06-2024 : Rajakumar, S/o. Balakrishnan Nambiar.

**PLAINTIFFS EXHIBITS**

A1 - 09-09-1991 : Certified copy of No.1826/1991 settlement deed executed by Lakshmi in favour of Rajakumar.

A2 - 25-06-1991 : Copy of delivery account and delivery report submitted by Amin in EP151/1991 in OS.45/1981.

A3 - 20-04-2022 : Land tax receipt.

A4 - 14-10-2022 : Copy of possession certificate.

A5 - 28-11-2022 : Copy of building permit and plan issued  
by Thalakulathur Grama Panchayath,  
Kozhikode.

DEFENDANTS WITNESSES AND EXHIBITS : NIL

COURTS WITNESSES AND EXHIBITS : NIL

Sd/-  
Additional Munsiff-I

**//True copy//**

Additional Munsiff-I

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Fair/ Copy of Order  
**OS. 506/2022**

Dated:02.07.2024