

IN THE COURT OF THE PRINCIPAL JUNIOR CIVIL JUDGE: ONGOLE**Present: Smt T. Haritha,**

Principal Junior Civil Judge, Ongole

Tuesday, the Seventeenth (17th) Day of March, 2015**Original Suit No.484/2011**

Between:

Kankanala Murali Krishna, S/o. Late Venkateswarlu,
Hindu, aged 46 years, Ex-military man, R/o. Yerajarla (V),
Tangutur Mandal, at present temporarily residing at
Ongole Town, Prakasam District

... Plaintiff

And

1. Gundapaneni Srinivasulu, S/o. Subba Rao, Hindu,
aged 37 years, agriculturist, R/o. Yerajarla (V),
Tangutur Mandal, Prakasam District
2. Kankanala Singaiah, S/o. Late Venkateswarlu,
Hindu, aged 46 years, Employee, R/o. A.S.Rao Nagar,
Shanku colony, H.No.21, E.C.I.L. Post, Hyderabad

... Defendants

The suit coming on 04-03-2015 before me for final hearing in the presence of Sri E. Rami Reddy and B. Venkata Reddy, Advocates for the plaintiff and of Sri M.V. Krupa Sagar, Advocate for the defendants 1 and 2, upon hearing the arguments and the matter having stood over for consideration till this day, this Court delivered the following:

// J U D G M E N T //

01. The suit is filed for perpetual injunction restraining the defendants, their persons and agents from interfering with the plaintiff's peaceful possession and enjoyment of plaint schedule property and not to obstruct or demolish the way which is using for the ingress and egress to A1 schedule property of plaintiff and for costs.

02. The brief averments of the plaint are that:

The Plaintiff is the absolute owner of the property shown as 'A1' in the plaint plan having purchased the same under Ex.A1 Regd. Sale deed dt.16-05-1969 from the 2nd Defendant and his family persons. Since then he has been in possession and enjoyment of the same. 'A2' and 'A3' marked portions as shown in the plaint plan is the way for ingress and

egress to 'A1' marked property/plaint schedule property from western side main road Donka. 'B1, B2, B3' marked properties as shown in the plaint plan are the properties of 2nd defendant. He purchased the same from 1st Defendant under Exs.A2 and A3 sale deeds. He has been in possession and enjoyment of those properties. 1st Defendant is going to demolish the A2, A3 marked way and he is proclaiming in the village that he is going to obstruct the plaintiff for ingress and egress to A1 marked suit schedule property through A2 A3 way. The 2nd defendant sold B1, B2 marked properties to 1st defendant by suppressing A2, A3 marked plaint plan way which was specifically mentioned in the Ex.A1 sale deed of plaintiff as item No.2. There is a specific mention in Ex.A1 sale deed with regard to way for the ingress and egress of the plaintiff from A1 marked property to northern side road as per plaint plan. The 1st Defendant has no right of way from A2, A3 marked plaint plan way. The 1st Defendant highhandedly with rowdy elements trespassing and going to obstruct without any manner of right. Thereby the plaintiff is constrained to file the present suit.

03. The 1st Defendant filed written statement. The 2nd Defendant not filed any written statement. The brief averments of the written statement filed by 1st defendant are that:

He denied the contents of the plaint and he filed separate plan along with written statement. In his plan, he extended the A3 way up to B3 marked property. As per the plaint plan, A3 marked way is extended up to B2 marked property only. But as per defendant's plan, A3 marked way was extended through B2 marked property up to the end of B3 marked property. Except that, the remaining is same. He submitted, he never extended any obstruction for the plaintiff in enjoying A1 marked

portion as per the specific recitals mentioned in the Regd. Sale deed under Ex.A1 dt.16-05-1965. He never caused any sort of objection for the plaintiff to reach A1 marked portion through A2 A3 marked portions which is width of 15 links. He admitted, A2 and A3 marked way is a joint property to the plaintiff and this Defendant for the purpose of ingress and egress for times immemorial. He admitted Exs.A1 to A3 documents. He admitted the recitals of the document in Ex.A1 with regard to A3 marked way. The width of A3 marked portion on eastern side as well as on the western side is 15 links. The length of A3 marked portion on northern and southern side is 94 links. In this half of the undivided extent i.e. $\frac{3}{4}$ cents was given to the plaintiff. A3 marked portion is in joint possession of plaintiff, 1st defendant including their vendors. This Defendant at his own costs developed A3 marked portion up to the end of B3 marked plot and formed A2 marked 15 links width way to reach A1 marked portion. Prays to dismiss the suit.

04. The following issues are settled for trial :

1. Whether the plaintiff has been in peaceful possession and enjoyment of suit schedule property as on the date of filing of the suit?
2. Whether the defendants attempted to interfere with plaintiff's possession and enjoyment of suit schedule property if so whether such interference is warranted?
3. Whether the plaintiff is entitled for permanent injunction as prayed for?
4. To what relief?

05. During the course of trial, the Plaintiff himself got examined as PW.1. Exs.A1 to A3 are marked. Ex.A1 is certified copy of sale deed dt.16-05-1969 executed by 2nd defendant and his family members in

favour of the plaintiff, Ex.A2 is certified copy of G.P.A. dt.27-04-2011 executed by D2 in favour of D1 and Ex.A3 is certified copy of sale deed dt.30-03-2011 executed by Marneni Nageswaramma and others in favour of 1st defendant. Plaintiff's evidence is closed.

After closure of the plaintiffs side evidence, the 1st Defendant himself got examined as DW-1. One third party to the suit by name Kanakala Anjaneyulu was examined as DW-2. Exs.B1 to B3 are marked. Exs.A1 to A3 and Exs.B1 to B3 are one and the same. Defendants evidence is closed.

06. Heard both sides.

07. **Issue No.1 :**

Whether the plaintiff has been in peaceful possession and enjoyment of suit schedule property as on the date of filing of the suit?

The possession of the plaintiff and Defendants in their respective properties were admitted by both of them. Hence the possession of plaintiff and Defendants over A1 marked property and B1 to B3 marked properties are not in dispute and admitted. Thus the plaintiff is able to establish his possession over A1 marked property as per plaint plan.

The dispute is with regard to A2, A3 marked way. PW-1 reiterated the contents of the plaint in his chief examination affidavit. DW-1 reiterated the contents of the written statement in his chief examination affidavit.

08. The contention of the plaintiff is, A2, A3 marked way was clearly mentioned in his sale deed under Ex.A1. As per the sale deed, the width is 15 links and length is 94 links on northern side and southern side.

PW-1 during his cross-examination deposed, there is a main road towards west of his property. From public road, the plaintiff has to reach his plot through A2 A3 marked way. He admitted B1 to B3 marked properties belongs to 1st defendant having purchased the same from 2nd defendant and another. He further deposed, except the document under Ex.A1, he do not have any other documentary evidence to prove his case. He admitted, vendor of plaintiff and 1st defendant are one and the same. The vendor of 1st defendant is a party to Ex.A1 sale deed, but he was alive at that point of time. He admitted, they gave right to him to pass through their property to reach western road. He further deposed in cross-examination, in Ex.A1 it is mentioned a road is created to him to pass through the land of his vendor to reach the western side road and also for passing through cattle towards west of his vendor's site.

09. From the evidence of PW-1, it is clear except the contents of Ex.A1 document, he do not have any other evidence to show and prove his right over A2 A3 marked way. DW.1 in his written statement as well as in his chief examination affidavit admitted the same. He categorically mentioned the recitals of the document is very clear about A3 marked portion. The width of A3 marked portion on eastern side as well as on western side is 15 links. The length of A3 marked portion on northern side and southern side is 94 links. A3 marked portion is in joint possession of plaintiff and himself. He has given right of passage towards west of Plot B2. He admitted, plaintiff has to reach his A1 marked portion through A2 marked 15 links width way from western public road. Thus, the 1st defendant admitted A2 A3 marked way in his chief examination affidavit and written statement. The A2, A3 marked way has been admitted by the defendants. Thus, the plaintiff is able to establish his

right over the A2, A3 marked way, as per plaint plan. He has every right to reach A1 marked property from western main road through A2, A3 marked way.

10. **Issue No.2 :**

Whether the defendants attempted to interfere with plaintiff's possession and enjoyment of suit schedule property if so whether such interference is warranted?

The contention of the plaintiff is, the defendant is proclaiming in the village that he is going to obstruct the plaintiff for ingress and egress to A1 marked schedule property through A2, A3 way. The 2nd Defendant sold B1 B2 marked properties to 1st Defendant by suppressing A2 A3 marked plaint way. But as seen from the contents of Ex.A2, it is clearly mentioned about A2 A3 marked way in that sale deed. Hence the contention of the plaintiff is not believable. Apart from that, the Defendant himself admitting A2 A3 marked way 15 links width length 94 links from western road to reach plaintiff's property and the defendant is admitting the recitals under Ex.A1 with regard to A2 A3 marked way.

PW-1 in his chief examination deposed, the defendants causing obstruction to him for ingress and egress to reach A1 marked property. But during his cross-examination, he deposed, there are no obstruction for him for ingress and egress to reach A1 marked property through A2 A3 way as per defendant's plan. That clearly disproves the version of the PW-1 with regard to obstruction by 1st defendant. He made two contradictory statements. Hence the evidence of PW-1 is not believable with regard to obstruction caused by the defendants for ingress and egress by him through A2 A3 marked way.

The plaintiff in his plaint and chief examination affidavit mentioned, 1st defendant highhandedly with rowdy elements trespassing and going to obstruct without any manner of right. PW-1 during his cross-examination deposed, the defendants not caused any obstruction to him for passing through the passage to reach his plot to an extent of Ac.0-04 ¼ cents. That clearly shows, the 1st defendant never trespassed into the property of plaintiff and not obstructed the plaintiff for his ingress and egress through A2 A3 marked way as per plaint plan and defendant's plan. Thus, the plaintiff failed to establish the defendants admitted to interfere with plaintiff's possession and enjoyment of the suit schedule property without any right. There is no unlawful or unwarranted interference by the defendants.

11. **Issue No.3 :**

Whether the plaintiff is entitled for permanent injunction as prayed for?

As per discussion at issue No.1, the plaintiff is able to establish he has been in peaceful possession and enjoyment of the suit schedule property as on the date of filing of the suit. The plaintiff is able to establish his legal right over A2, A3 marked way and he has every right to pass through the A2 A3 marked way from western road to reach his A1 marked property by examining himself as PW-1 and marking Exs.A1 and B1 documents.

The plaintiff failed to prove unlawful and unwarranted interference by the defendants in his A2, A3 marked way. When there is no unlawful or unwarranted interference, the plaintiff is not entitled for permanent injunction as prayed for.

12. **Issue No.4 :*****To what relief?***

In the result, the suit is dismissed with costs.

Dictated to the Personal Assistant, transcribed by her, corrected and pronounced by me in open Court this the 17th day of March, 2015.

**PRL. JUNIOR CIVIL JUDGE,
ONGOLE**

**Appendix of Evidence
Witnesses examined**

For Plaintiff:

PW-1: Kankanala Murali Krishna

For Defendants:

DW-1: Gundapaneni Srinivasulu

DW-2: Kanakala Anjaneyulu

Documents marked**For Plaintiff:**

Ex.A1/	–	:	Certified copy of sale deed dt.16-05-1969 in favour of plaintiff.
Ex.A2/	–	:	Certified copy of General Power of Attorney dt.27-04-2011 executed by D2 in favour of D1.
Ex.A3/	–	:	Certified copy of sale deed dt.30-03-2011 in favour of D1 executed by Marneni Nageswaramma and others.

For Defendants:

Ex.B1/	–	:	Certified copy of Document No.954/1969 executed by Venkateswarlu in favour of Murali.
Ex.B2/	–	:	Certified copy of agreement of sale-cum-G.P.A. dt.27-04-2011 executed by Kankanala Singaiah / 2nd defendant in favour of 1st defendant.
Ex.B3/	–	:	Certified copy of Regd. Sale deed dt.30-03-2011 executed by Marneni Nageswaramma and others in favour of 1st defendant.

**P.J.C.J.
ONGOLE**