

IN THE COURT OF THE PRINCIPAL MUNSIF, CHERTHALA  
Present: Smt.Ashadevi V.S., Principal Munsiff  
Tuesday 27<sup>th</sup> day of September, 2022/ 5<sup>th</sup> Aswina, 1944

**O.S.No.43/2021**  
(Filed on 23.01.2021)

Plaintiff:-

Omana A.P, aged 61  
Thennal villa, Panavally village,  
Panavally P. O, Cherthala Taluk from  
Pratheesh Bhavan, Aroor village,  
Aroor P. O, Cherthala.

By Adv.M.M.Vinod

Defendant:-

Ajayan, aged 40, S/o. Vijayan  
Chettukattu veli, Manappuram,  
Thycattussery village, Manappuram P. O,  
Cherthala

Exparte

This Suit having been finally heard on 03.09.2022 and the Court on the same day delivered the following:-

### **JUDGMENT**

Suit for Permanent Prohibitory Injunction.

2. **Brief facts:-** Plaintiff schedule property belongs to the plaintiff by virtue of Settlement deed No. 3946/96 of SRO Panavally. The plaintiff schedule property is well demarcated with specific boundaries on all sides. The defendant is the resident in the property on eastern side of

plaint schedule property. There is a Panchayath road on the north-eastern side of the property situating on the further east of his property. Plaintiff constructed a commercial building in the plaint schedule property and her son and others doing business in the shop rooms. After removing the existing fence, plaintiff constructed a compound wall in northern and eastern side of the plaint schedule property. The defendant in continuation of his predecessor in interest has been using the pathway starts from his property proceed towards north-eastern side and reaches up to the said Panchayath road. The pathway is having a length of about 30 meters and a width of 1 meter. Matters being so, on 20.12.2020 the defendant is residing in his wife's residence away from his property for the last more than one year, abandoning his residential house, obtained from the State Government under Tribal Welfare Scheme. Thereafter on 20.12.2020 defendant along with three others came to his property and constructed a fence in its eastern side, separating the eastern property where the pathway situates. Thus, he close down the *padi* existed on the eastern fence which is the starting terminal of the pathway. Thereafter, paid news appeared in Malayala Marorama Daily stating that the plaintiff has close down the pathway of

the defendant. In fact there is no pathway through the plaint schedule property. Taking advantage of the unwanted circumstance the defendant trespassed into the plaint schedule property and tried to demolish the compound wall of the plaintiff. But due to the timely intervention of the plaintiff's son and friends, defendant's intention to cut open a new pathway through the plaint schedule property not fulfilled. Further, the defendant threatened the plaintiff that he will cut open a new pathway through the plaint schedule property. Hence, the suit.

3. Defendant appeared. In spite of giving several opportunities defendant did not file written statement. Hence, suit proceeded ex parte against defendant.

4. Plaintiff present and filed proof affidavit as PW1. Exts. A1 to A3 series were marked.

5. Plaintiff reiterated the fact averred in the plaint. She produced copy of Settlement Deed No. 3946/1996 on the file of SRO, Panavally, Ext A2 tax receipt and Ext A3 building tax receipt thereby proves her title over plaint schedule property. Urgent Commissioner visited the plaint schedule property and filed report with rough sketch marked as Ext C1 and C1(a). The commissioner identified the plaint schedule property.

6. Thus, from the documents and Commission Report it is found that the plaintiff's case is proved. The pleading and evidence of plaintiff regarding her apprehension as to the illegal acts attempted to have done by the defendant remained unchallenged and it lays down the cause for having a decree in favour of the plaintiff.

In the result, suit decreed as follows:-

1. Defendant and all under him are hereby restrained by a decree of Permanent Prohibitory Injunction from committing trespass upon plaint schedule property, from demolishing the compound wall situating therein the plaint schedule property, from cut opening a new pathway through the plaint schedule property or in its any portion and from obstructing the peaceful enjoyment of plaint schedule property by the plaintiff.
2. Plaintiff also allowed with costs of the suit.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected by me and pronounced in the open Court on this the 27<sup>th</sup> day of September, 2022.)

Sd/-  
**ASHADEVI. V.S,**  
**PRINCIPAL MUNSIFF.**

**Appendix:****Witness for the Plaintiff:**

PW1 16.06.2022 Omana

**Exhibits for the Plaintiff:**

- A1 - Certified copy of settlement deed No.3946/96 of Panavally SRO dated 22.10.1996
- A2 - Copy of tax receipt(T.P.No.9213) issued by Thycattussery Village Office dated 15.01.21
- A3 - Copy of building Tax receipt building No.9/362,362A,363 issued by Thycattussery grama panchayath dated 30.03.2019.
- A3(a)- Copy of building Tax receipt building No.9/36A,365 issued by Thycattussery grama panchayath dated 30.03.2019.
- A3(b)- Copy of building Tax receipt building No.9/357 issued by Thycattussery grama panchayath dated 28.03.2019.
- A3(c)- Copy of building Tax receipt building No.9/359,360,361, issued by Thycattussery grama panchayath dated 30.03.2019.

**Court Exhibits:-**

- C1 - Commission report prepared by Adv.N.Girija dated 06.02.21
- C2 - Rough plan prepared by Adv.N.Girija dated 06.02.21

*Id/-*  
**Principal Munsiff**