

IN THE COURT OF THE PRINCIPAL MUNSIF, CHERTHALA
Present: Smt.Ashadevi.V.S, Principal Munsiff
Saturday, the 4th day of March, 2023/13th Phalgunam, 1943

O.S.No.367/2020
(Filed on 10.08.2020)

Plaintiff:

Retnamma, aged 75, D/o Ramankutty,
Parackottuvely house, Varanam P.O.,
Thanneermukkom North village

By Adv. A.S.Santhosh

Defendant:

Jayaram, aged 45, S/o Vasu,
Parackottuvely house, Varanam P.O.,
Thanneermukkom North village.

By Adv. P.S.Sajith

This suit having been finally heard on 28.02.2023 and the court on 04.03.2023 passed the following:

JUDGMENT

Suit for Declaration and setting aside the document.

2. **Brief facts:-** Plaint schedule property originally belonged to Ramankutty the father of plaintiff. The property was settled in favour of plaintiff. The plaintiff and her sister Omana are residing in the residential building in plaint schedule property. They are spinsters and are illiterate. Plaintiff is partially blind. Ramankutty died leaving behind him Vasu, Ratnamma, Omana, Mahindran and Mani. Mani passed away. The property was divided between the legal heirs of Ramankutty. Defendant is the son of Vasu. He resides away from plaint schedule property. On 23.09.2019

the defendant came to the house of plaintiff and took her to the SRO under the guise that she was taken to hospital. The plaintiff was managed by the defendant to execute a Sale deed in his favour as Sale deed No. 1352/19. The Sale deed is vitiated with fraud and by coercion. After the filing of the suit defendant and his family came to plaintiff schedule property and started residing in the house therein by expelling the plaintiff forcefully from the plaintiff schedule property. Thus the plaintiff, her sister and Abhirami, the daughter of younger brother of plaintiff are residing in the shed thatched tarpolin situated in the plaintiff schedule property. Originally the suit filed for declaration and Permanent Prohibitory Injunction alone. The suit was amended as per order in IA 4/2020 allowed on 09/2/2023. Thus the relief of eviction of the defendant from the plaintiff schedule property is also incorporated in the plaint.

3. The defendants served with summons. No written statement filed inspite of time granted from 18/9/2020 till 21/5/2022.

4. The plaintiff filed Proof Affidavit. Ext A1 and A2 were marked. Ext A2 is the Sale Deed sought to be set aside. Ext A2 is the Sale Deed in favour of the defendant. The plaintiff sought to set aside the document on the ground that it is vitiated by fraud, coercion and undue influence. The defendant did not appear in Court or adduce any evidence to prove that the

document is a valid document. Thus the property obtained by the plaintiff as per Ext A1 documents remained without any transfer and as such the plaintiff is entitled to the relief sought for in the plaint.

In the result, the suit decreed as follows

1. The plaintiff's right over plaint schedule property is hereby declared and Sale deed No. 1352/2019 in favour of the defendant is hereby set aside on the ground that it is executed by undue influence and fraud committed upon the plaintiff. The defendant is hereby directed to give vacant possession of the plaint schedule property and building situated therein within a period of 1 month from today failing which the plaintiff can get vacant possession of the plaint schedule property and the building through the process of court.

2. The defendant and all under them are hereby restrained by a decree of Permanent Prohibitory Injunction from entering the plaint schedule property and interfering with the peaceful occupation and enjoyment of plaint schedule property by the plaintiff.

3. Plaintiff is 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 4th day of March, 2023).

Sd/-
Ashadevi.V.S
Principal Munsiff

Appendix:**Witness for the Plaintiff:**

PW1 28.02.2023 Retnamma

Exhibits for the Plaintiff:

A1 13.12.2008 Notary attested copy of partition deed No.1829/18 of
Puthambalam, SRO .

A2 23.09.2019 Certified copy of sale deed no.1352/19 of SRO,
Puthanambalam.

Id/-
Principal Munsiff