

IN THE COURT OF THE ADDITIONAL MUNSIFF, CHERTHALA
Present: Smt.Anju Cletus.Bsc, LL.M., Additional Munsiff
Friday, the 31st day of January, 2020/11th Magha 1941

O.S. No.320/2019
Filed on 03.07.2019

Plaintiffs:-

1. Vijayamma, aged 65 years, W/o Rajappan, Karukapparambil, from Veluthedathu, Ezhupunna South Muri, Kodamthuruthu village, Karumanchery P.O, Cherthala.
2. Rajappan, aged 70 years, S/o Karumbi of -do-do-

By Adv. V.N.Madhusudanan
Adv.M.M. Vinod and Mary Lucy Biyanga.P.G.

Defendants:-

1. Manoj, aged 42 years, Palakkal, S/o Peethambaran, Ezhupunna South Muri, Kodamthuruthu village, Ezhupunna South P.O, Cherthala.
2. Remya, aged 34 years, D/o late Gopinathan, Sree Chithira from Aswathy Nivas of -do-do-
3. Shinu, aged 40 years, Sree Chithira, Ezhupunna South Muri, Kodamthuruthu village, Ezhupunna South P.O, Cherthala.
4. Lawrence, aged 52 years, Vadakkethalakkal of -do-do-
5. Vinod Sasidharan, aged 43 years, S/o Sasidharan, Korandippally of -do-do-
6. Sagi Vinod, aged 37 years, W/o Vinod of -do-do-
7. Bhavani Dasan, aged 61 years, W/o Dasan, Nikarthil of -do-do-

8. Sunilkumar, aged 46 years, S/o Vijayan, Pattedathu, Chandiroor P.O, Chandiroor Muri, Aroor village, Cherthala.
9. Surendran, S/o Divakaran, aged 53 years, Kalarikkal, Ezhupunna South Muri, Kodamthuruthu village, Ezhupunna South P.O, Cherthala.
10. Sudheer Surendran, aged 35 years, S/o Surendran of -do-do- Adv. P.S.Anilkumar

This suit having been finally heard on 16.1.2020 and the court on 31.01.2020 delivered the following:-

JUDGMENT

Suit for injunction.

2. Plaintiff averments in brief are as follows: The plaintiff schedule item No.1 absolutely belongs to the plaintiffs by virtue of sale deed No.638/1983 and 2424/1974. They are residing therein with family. On the southern, western and northern sides of the plaintiff schedule property, plaintiffs have left 1 meter wide pathway for the use of general public way in the locality. A well maintained fence constructed using stumps and iron sheet is situated on the southern and western sides of the plaintiff schedule property. Defendants are the nearby residents of the plaintiff schedule property. They have no manner of right over the plaintiff schedule property. They are the beneficiaries and users of the pathway. On 25.6.2019 the defendants tried to destroy the

fences of the plaint schedule property and trespass upon the plaint schedule property. Due to the timely intervention of the plaintiffs, the defendants had withdrawn from their illegal acts. But the defendants have threatened that they will again trespass into the plaint schedule property and destroy the fences and widen the existing pathway into a cartable way. Therefore, the defendants shall be restrained from trespassing into the plaint schedule property, from destroying the fences of the plaint schedule property, from widening the existing pathway into a cartable way and from committing any act of waste in the plaint schedule property. Hence, the suit.

3. Defendants were set ex-parte for not filing the written statement.

4. On the side of the plaintiff, plaintiff filed proof affidavit. Exts A1 to A4 and C1 and C1 (a) were marked.

5. Heard

6. The unchallenged proof affidavit and documents prove the case of the plaintiff. Hence, the suit is liable to be decreed in favour of the plaintiff.

In the result, the suit is decreed as follows.

1. Defendants are restrained from trespassing into the plaint schedule property, from destroying the fences therein, from widening the existing pathway in the plaint schedule property into a cartable way, from committing any act of waste in the plaint schedule property and from causing any obstruction plaintiff's peaceful use of the plaint schedule property.
2. Parties shall suffer their respective costs.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in the open Court on this the 31st day of January, 2020.

Sd/-
Anju Cletus
Additional Munsiff

Appendix:

Exhibits for the plaintiff:-

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| A1 | :- | Certified copy of sale deed No. 638/1983 dated 14.03.93 of the SRO Kuthiathode |
| A2 | :- | Certified copy of sale deed No.2424/74 dated 08.07.1974 of the SRO Arookutty |
| A3 | :- | Tax receipt No. T.1283692 dated 14.05.2019 issued by Village Officer, Kodamthuruthu Village Office |
| A3(a) | :- | Tax receipt No. T.1283691 dated 14.05.2019 issued by Village Officer, Kodamthuruthu Village Office |

- A3(b) :- Tax receipt No. T. .1283690 dated 14.05.2019 issued by Village Officer, Kodamthuruthu Village Office
- A4 :- Certified copy of Commission Report in CMP No. 117/19 dated 10.05.2019 of the Vacation Court, Alappuzha

Court Exhibits:-

- C1 :- Commission Report prepared by Adv. T.K.Haribalan, Advocate Commissioner dated 16.07.2019
- C1(a) :- Rough plan prepared by Adv. T.K.Haribalan, Advocate Commissioner dated 16.07.2019

Id/-
Additional Munsiff