

IN THE COURT OF THE PRINCIPAL MUNSIFF, CHERTHALA

Present: Smt. Ashadevi.V.S, Principal Munsiff

Tuesday, the 9th day of April, 2024/20th Chithram 1946

O.S. No.455/2016
(Filed on 01.08.2016)

Plaintiff:

Sivankutty, aged 30, S/o.Venugopal,
Panchakshari, Kaithavana, Pazhaveedu Village,
Ambalapuzha Taluk. Rep. By his Power of Attorney
Holder, Dr.L.Ushakumari, aged 57,
W/o.Venugopal, Panchakshari, Kaithavana Ward,
Pazhaveedu Village, Ambalapuzha Taluk.
Alappuzha.

*By Adv.P.Manoj, &
Adv.Gurudas H.Mallan.*

Defendants:

1. State of Kerala Rep. By the District Collector,
Collectorate, Alappuzha.
2. The Tahasildar, Taluk Office, Cherthala
3. The Village Officer, Thycattussery.

By AGP

This suit having been finally heard on 08.04.2024 and the Court on
the 09.04.2024 delivered the following:

J U D G M E N T

Suit for Permanent Prohibitory Injunction.

2. **Brief facts:-** Plaint schedule property originally belonged to the grand

father of the plaintiff. He assigned it to Raji. From her plaintiff purchased the property. The property is well demarcated . On the western side of the property lies Chenganda-Thrichattukulam PWD road. The retaining wall of the road was constructed 10 years back. The plaintiff applied for permission to construct compound wall above the said retaining and permission was granted. Certain persons who have no property in any place near the plaint schedule property had raised allegation that the portion of purambokku is included in plaint schedule property. Thereafter a shop was created on the side of the road preventing the access of vehicles to the plaint schedule property from the road. On request made by the plaintiff, the PWD authorities directed to remove of the shed but it was not obeyed. The plaintiff approached Hon'ble High Court for getting the Order implemented. While so the Additional Tahsildar, Cherthala came to the place made some measurements and declared arbitrarily that there is purambokku within plaint schedule property. Thereafter they tried to demolish the boundary wall and to encroach upon plaint schedule property. Hence the suit filed for the relief of Declaration. Later the suit was amended.

3. Defendants appeared and D2 filed written statement for all defendants with following contentions. The plaintiff's grandfather obtained only 67 cents and not 90 cents from his predecessor. There is no virivu for the property. The side measurements were fraudulently included in the document. The plaintiff or her predecessor in interest never obtained title or possession over 90 cents scheduled in

the plaint. The retaining wall of the road was constructed only for the protection of the road and not as boundary of the purambokku land. There was only a permission to construct the compound wall, by that the plaintiff did not obtain any right over purambokku land. Complaint received in Taluk Office alleging that the plaintiff had encroached upon purambokku land and constructed the compound wall encroaching to 04.64Ares of purambokku land. Hence notice issued for eviction. In order to thwart such proceeding, the suit filed with ulterior motives .

4. The following issues raised for trial:

1. Whether the plaint schedule property is identifiable?
2. Whether the plaintiff has exclusive title and possession over plaint schedule property?
3. Whether the plaintiff is entitled to permanent Prohibitory Injunction as prayed for?
4. Reliefs and costs?

5. From the side of plaintiff Power of Attorney holder of the plaintiff filed proof affidavit as PW1. Exts A1 to A12, C1, C1(a), C2 , C2 (a) and C3 were marked.

6. The defendants and Counsel remained absent. The plaintiff proved title over plaint schedule property. The plaint schedule property was identified by Ext C1, C1 (a) and C2, C2 (a). The apprehension of the plaintiff is proved by the contentions of the defendants. Thus plaintiff succeeded in proving the case.

In the result, suit decreed as follows:-

1. The right, title and possession of plaintiff over plaint schedule property is hereby declared.
2. The defendants and all under them are hereby restrained by a decree of Permanent Prohibitory Injunction from encroaching to plaint schedule property and from demolishing the compound wall or dispossessing the plaintiff from any portions other than by due procedure of law and also from causing any obstruction or any waste to the possession and enjoyment of plaint schedule property by the plaintiff.
3. Plaintiff is also allowed with costs of the suit.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open Court on this the 9th day of April, 2024)

Sd/-
ASHADEVI.V.S
PRINCIPAL MUNSIFF

Appendix:

Witness for the Plaintiff:-

PW1	06.04.2024	Proofaffidavit filed by Dr.L.Ushakumari Power of attorney holder.
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Exhibits for the Plaintiff:

A1	02.03.2016	Power of attorney
A2	28.08.1983	Certified copy of sale deed

		No.1878/1983.
A3	06.10.1998	Certified copy of sale deed No.2930/1998.
A4	28.12.2015	Certified copy of sale deed No.3224/2015.
A5	22.06.2023	Basic tax receipt No.KL04021905005/23of Thyikattussery village.
A6	02.02.2016	Order No.DB2-1032/89 of Asst. Executive Engineer PWD, Cherthala.
A7	04.03.2016	True copy of notice issued by AE, PWD, Road division, Pattanakkadu.
A8	23.03.2016	Certified copy of Judgment in WP(C) No.11152/2016(T) of High Court of Kerala.
A9	13.07.2016	Certified copy of Judgment in WP(C) No.20130/2016(M) of High Court of Kerala.
A10	29.06.2016	Notice No.H5 8073/16, issued by the Addl.Tahsildar, Cherthala to UshaKumari
A11	23.08.2016	Notice No.H5 8073/16, issued by the Addl.Tahsildar,Cherthala toSivankutty.

A12	04.12.2021	Copy of Notice issued by the Addl.Tahsildar (LR), Cherthala to UshaKumari
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Court Exhibits:-

C1	09.08.2016	Commission report prepared by Adv.R.Renjith
C1(a)	09.08.2016	Plan prepared by Adv.R.Renjith
C2	12.12.2023	Commission report prepared by Adv. Premsankar K.
C2(a)	-	Plan prepared P.K.Parameswarankutty., Rtd. Surveyor.
C3	08.01.2024	Addl.Report by Adv.Premsankar K.

Sd/-

PRINCIPAL MUNSIFF

/True Copy/

PRINCIPAL MUNSIFF

Fair Copy of *Judgment in*
O.S.No.455/2016
Dated: 09.04.2024