

IN THE COURT OF THE PRINCIPAL MUNSIFF, CHERTHALA
Present: Smt. Rehana Rajivan, LL.M., Principal Munsiff
Wednesday, the 5th day of February, 2020/16th Magha, 1941

O.S. No.709/2015
(Filed on 19.10.2015)

Plaintiff: Antony Jacob, aged 55 years
S/o Antony, Pollayil veetil,
Ward - 9, Cherthala Municipality,
Cherthala Kizhakkum muri,
Kokkothamangalam village

By Adv.Sri.C.J.Varghese

Defendant: John, aged 50 years
S/o Abraham, Puthenveetil,
Thuravoor Grama Panchayath, 8/226,
Padinjattumkara thekkum muri,
Thuravoor thekku village

Exparte

This suit having been finally heard on 05.02.2020 and the court on the same day delivered the following:

J U D G M E N T

Suit for mandatory and permanent prohibitory injunction.

2. The plaint averments in brief are as follows: Plaintiff and defendant were friends. Plaintiff used to assist the defendant financially on various occasions. Finally, at the request the defendant, plaintiff agreed to purchase his residential property for Rs. 15 lakhs

and executed a registered agreement for sale on 24/04/2014. An amount of Rs. 12 lakhs was given to the defendant as advance amount. On 18/07/2014, plaintiff purchased the said property by paying the balance sale consideration of Rs.3 lakhs. Defendant assured that he will clear the debts with respect to the plaint schedule property before the North Malabar Gramin Bank and would collect and deliver the prior deeds to the plaintiff. But even after repeated demands, defendant failed to do so and preferred frivolous complaints against the plaintiff before the police. Plaintiff therefore issued a lawyer notice dated 12/10/2015, which was returned unclaimed. Defendant thereafter started to commit wastes by cutting and removing trees from the plaint schedule property. Plaintiff effected mutation, with respect to plaint schedule property, on the basis of deed executed on 18/07/2014, in his name. Defendant is liable to surrender vacant possession of the residential building to the plaintiff. Defendant is not entitled to reside or to induct strangers into the plaint schedule property. Defendant is threatening the plaintiff that he would get the plaintiff arrested by preferring a false complaint that the plaintiff is doing illegal money lending business. Hence the suit. .

3. Defendant though filed written statement, remained absent on the listed day and as he was set exparte. Plaintiff filed proof affidavit and Exts. A1 to A7 were marked.

4. Heard the counsel for the plaintiff.

5. Exts. A1 and A2 prove that plaintiff has purchased the plaint schedule property from the defendant. Ex.A5 and A6 tax receipts shows that mutation with respect to the plaint schedule was effected in the name of the plaintiff. Proof affidavit and exhibits prove the plaint claim. I find that the plaintiff is entitled to the decree as prayed for.

In the result, the suit is decreed as follows:

- 1) The defendant is hereby restrained by way of permanent prohibitory injunction from inducting strangers into the plaint schedule property and from committing any wastes therein.
- 2) Defendant is hereby directed to clear off the debts with respect to plaint schedule property, before the North Malabar Gramin Bank, and to hand over the prior title deeds to the plaintiff within one month from the

date of this order, failing which, the plaintiff is entitled to clear off the liabilities of the defendant with respect to the suit property at North Malabar Gramin bank and to collect the documents, and get the amount so paid, realized from the assets of the defendant.

3. Defendant is directed to give use and occupation charges at the rate of Rs.3,000/- per month till he surrenders vacant possession of the residential building to the plaintiff.
4. Plaintiff is entitled to the costs of the suit.

Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in the open Court on this the 05th day of February, 2020.

Rehana Rajivan
Principal Munsiff

Appendix:-

Witness for the Plaintiff:

PW1 :- Proof affidavit filed by Antony Jacob
dated, 21.05.2019.

Exhibits for the Plaintiff:

- A1 :- Agreement for Sale dated, 24.04.2014.
- A2 :- Sale deed No.1139/14 of Kuthiathode Sub Registrar office dated, 18.07.2014.
- A3 :- Lawyer notice dated, 12.10.2015.
- A4 series :- Postal receipts (2 in Nos) dated, 12.10.2015.
- A5 :- Tax receipt (T.P.No.23126) of Thuravoor South village office dated, 24.07.2015.
- A6 :- Tax receipt (T.P.No.23126) of Thuravoor South village office dated, 19.12.2014.
- A7 :- Receipt from Thuravoor South village office dated, 24.11.2014.

Id/-
Principal Munsiff