

IN THE COURT OF THE ADDITIONAL MUNSIFF, CHERTHALA

Present: Smt.Akshaya.P.R, Additional Munsiff

Friday, the 9th day of February, 2024/ 20th Magham, 1945.

IA 06/2024 in O.S. No.592/2023

(Filed on 05.02.2024)

Petitioner/Plaintiff:-

Hareesh N R, aged 45,
S/o Reghuvaran, Nilachira Nikarthil, Manappuram P O,
Thevarvattam Muri, Thycattussery Village,
Cherthala Taluk, Alappuzha.

By Adv. Thomas Joseph

Respondents/Defendants:-

1. Ravi, aged 48,
S/o Appachan, Koorthanamparambil Veedu,
Thycattussery P O, Thycattussery Village,
Cherthala Taluk, Alappuzha.
2. Gopi, aged 60,
S/o Appachan, Puthenveetil Chirayil,
Thycattussery P O, Thycattussery Village,
Cherthala Taluk, Alappuzha.
3. Velayudhan, aged 55,
S/o Kesavan, Koorthanamparambil Veedu,
Thycattussery P O, Thycattussery Village,
Cherthala Taluk, Alappuzha.
4. Vijayan, aged 58,
S/o Appachan, Puthenveetil Chirayil,
Thycattussery P O, Thycattussery Village,
Cherthala Taluk, Alappuzha.

R1, R3 & R4 by Adv. P S Sajith

This advance petition having been finally heard on 09.02.2024 and the court on the same day passed the following :-

ORDER

Advance application seen filed by the petitioner/ plaintiff stating that injunction application was allowed and they were allowed to preserve the property. But according to the petitioner, when he reached the plaint schedule property to construct compound wall, the same was obstructed by the defendants.

2. The application was objected by the defendant stating that the matter stated in the affidavit is false and without obtaining an order from court to construct the compound wall, the plaintiff had come to plaint schedule property to do construction of compound wall.

3. When the case was considered petitioner prays for hearing and submitted that case may be adjourned to 12.02.2024 as learned counsel is not available. But the counsel for defendant was not amenable and stressed for hearing IA on this day itself. Heard respondent. As further delay in hearing advance application would defeat the purpose the part of plaintiff is taken as heard.

4. I have gone through the affidavit filed by the petitioner in support of advance application. In which even if the fact that the purpose of posting on 16.03.2024 mistakenly stated is reckoned as trivial in nature. I believe that the rest of the application not shows any bonafides. In the injunction application though the petitioner has sought permission to construct compound wall along with other prayers, that portion was specifically not allowed by the court on 13.12.2023. The ad interim injunction was granted only to restrain the respondents from trespassing into the plaint schedule property, from committing any act of waste and from obstructing the peaceable possession of plaint schedule property by the plaintiff. The relief to allow the plaintiff to construct compound wall or fence on plaint schedule property to preserve it was conspicuously not granted by the court as that portion of relief is having the effect of a prayer of mandatory injunction. In such a circumstance I wonder how the plaintiff could attempt to construct a compound wall by stating that court has granted a favourable order to protect this property. Also it shall be noted that the injunction was only ex parte in nature and is posted to 16.03.2024 for objection and hearing IAs.

5. In these circumstances I believe that the prayer to advance the case cannot be allowed relying on the affidavit filed by the petitioner and for the reason stated in the petition. Rather I believe the parties shall be ready for

hearing IA 1/23, i.e, the Interim Injunction application.

Accordingly IA dismissed.

(Pronounced by me in the open court on this the 9th day of February, 2024.)

Sd/-
AKSHAYA P R
ADDITIONAL MUNSIFF

APPENDIX :- NIL

Sd/-
ADDITIONAL MUNSIFF