

IN THE COURT OF THE MUNSIFF, HARIPAD
Present: Sri. Doney Thomas Varghese , B.A.LL.B(Hons:).Munsiff
Saturday 23rd September 2017 /1st Aswina 1939

O.S. No. 51/2016
(Filed on 15.02.2016))

Plaintiff: Karthikeyan, aged 45 years,
S/o Gopalan,
Karthikeyam, Haripad.P.O.,
Thulamparambu South Muri,
Haripad Village,
Karthikappally Taluk

By Adv.Sri.G.Anilkumar

Defendants: Ashokan, aged 58 years,
S/o Anirudhan, Kochupochayil,
Thottappally.P.O.,
Karuvatta North Muri,
Karuvatta Village,
Karthikappally Taluk.

Defendant set exparte

This suit having been finally heard on 20.09.2017 and the court on 23.09.2017 delivered the following:

J U D G M E N T

Suit for eviction and permanent prohibitory injunction.

2. The averments in the plaint in brief are as follows:-

Plaintiff is the absolute owner in possession of the plaint schedule property by virtue of sale deed No:1684/12. Plaint schedule property originally belonged to the defendant who sold it to Padmakaran the predecessor in title of the plaintiff. Though a building is there in item No:1 property there is no whisper in the title deed as to the said building.

After the execution of the deed in favour of Padmakaran defendant and his family vacated from the plaint schedule property and shifted their residence to a rented house. Thereafter said building remained as locked. In the year 2011 defendant along with his family started residing in the building with the permission of Padmakaran. Whileso sale deed No:1684/12 was executed by said Padmakaran in favour of the plaintiff. After the said sale deed plaintiff asked the defendant to give vacant possession of the said building. Defendant sought time for arranging alternate accommodation. Accordingly defendant continued there with the permission of the plaintiff. Recently defendant started raising frivolous claims over the building with an intention to retain his possession. Defendant is now obstructing the plaintiff from entering into the plaint schedule property and to take yield from the said property. Defendant filed a suit before this court as OS 12/2016 against the plaintiff and said Padmakaran. On 19.01.2016 plaintiff has caused to issue lawyer's notice to the defendant calling upon him to give vacant possession. Even now defendant is in possession of the said building as an unauthorised occupant. Now the plaintiff has got reliable information that the defendant is making hasty preparations to commit waste in the said property. If the defendant is not restrained from such acts it will result in irreparable loss and injury to the plaintiff. Hence this suit for evicting the defendant from the plaint schedule property and the building there on and for a permanent prohibitory injunction

restraining the defendant from committing any waste there in the plaint schedule property and the building there on or from trespassing into the said property or from taking any yield from the said property.

3. Defendant entered appearance but when the case was included in the special list for trial defendant failed to turn up and accordingly he was set exparte.

4. From the side of the plaintiff, he was examined as PW1 and Ext A1 to A6 and Ext.C1 series (a) to (c) were marked.

5. Heard the learned counsel for the plaintiff and the only point that arise for consideration is whether the plaintiff is entitled to the reliefs sought for in the suit.

6. PW1 has filed affidavit in lieu of examination in chief which is in consonance with the averments in the plaint. From the uncontroverted testimony of PW1 and Ext. A1 to A6 and Ext.C1 series (a) to (c) documents plaintiff has established his case warranting the grant of the reliefs sought for in the suit. Point is answered in the affirmative.

In the result suit is decreed with costs. Defendant is directed to put the plaintiff in possession of the plaint schedule property and the building thereon within a period of one month failing which plaintiff is entitled to evict the defendant from the plaint schedule property and the building thereon through the process of this court. Permanent prohibitory injunction is granted restraining the defendant from committing any waste there in the plaint schedule property and the building there on or from

trespassing into the said property or from taking any yield from the said property.

Dictated to the Confdl. Asst., transcribed and typed by her, corrected by me and pronounced in the open court on the 23rd day of September, 2017.

Sd/-
DONEY THOMAS VARGHESE
MUNSIFF

APPENDIX

Exhibits for the plaintiff:

A1	14.06.2012	Sale deed No.1684/12
A2	29.05.1998	Sale deed No.1345/98
A3	13.10.2015	Copy of Tax receipt
A4	10.05.2017	Tax receipt
A5	19.01.2016	Copy of legal notice
A6	“	Postal receipt

Exhibits for the defendant: Nil

Court Exhibits:

C1(a)	23.11.2016	Commissioner's mahazar prepared by Adv.Sri.K.Umesh
C1(b)	“	Commissioner's report of -do-
C1(c)	“	Rough sketch of -do-

Witness for the Plaintiff:

PW1	18.09.2017	G.Karthikeyan
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Witness for the defendant:Nil

Id/-
MUNSIFF

//True copy//

Typed by:vlb
Compd by:

MUNSIFF