

IN THE COURT OF THE MUNSIF, HARIPAD
Present: Sri. Doney Thomas Varghese, B.A.LL.B. (Hons.), Munsiff,
Monday 23rd October 2017/ 1st Karthika 1939

O.S.No.408/2015
(Filed on 23.12.2015)

Plaintiffs:

- 1 Pappachan, aged 45 years,
S/o Sreedharan,
Karukaparambil,
Kotte Muri,
Thrikkunnappuzha Village
From: Karukaparambil,
Pathiyamkara Muri of -do-
- 2 Preethi, aged 40 years,
W/o Pappachan of -do-

By Adv. Sri.M.Ibrahimkutty

Defendants:

- 1 Bhramanandan, aged 52 years,
S/o Ponnappan,
Valayil veetil,
Kotte Muri,
Thrikkunnappuzha Village
- 2 Dhushyantha, aged 47 years,
W/o Bhramanandan of -do-

Defendants set Exparte

This suit having been finally heard on 19.10.2017 and the court on 23.10.2017 delivered the following:

J U D G M E N T

Suit for permanent prohibitory injunction.

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

Plaintiffs are the absolute owners in possession of plaintiff schedule property by virtue of sale deed No:3840/96 and sale deed No:2396/00. A residential building situates there on the plaintiff schedule property. Plaintiff schedule property is well demarcated from the northern property of the defendants. There is an opening to a width of 1 meter on the south eastern portion of the plaintiff schedule property. There exists a road on the northern side of the property of the defendants. Recently defendants have fenced the opening from their property to access the northern public road and started raising frivolous claim of right of way through the plaintiff schedule property. Defendants have no manner of right or interest over plaintiff schedule property. On 20.12.15 defendants openly declared their plan to construct a new way through the plaintiff schedule property by demolishing the partially completed boundary wall on the southern and eastern sides of plaintiff schedule property. If the defendants are not restrained from such acts it will result in irreparable loss and injury to the plaintiffs. Hence this suit for a permanent prohibitory injunction restraining the defendants from trespassing into plaintiff schedule property or from making use of the property as a way or from committing any waste there in or from obstructing the completion of compound wall on the southern and eastern boundaries of the plaintiff schedule property.

3. Defendants entered appearance but when the case was included in the special list for trial they failed to turn up and accordingly they were set exparte.

4. From the side of the plaintiffs, 2nd plaintiff was examined as PW1 and Ext A1 to A3 and Ext.C1 series (a) to (c) were marked.

5. Heard the learned counsel for the plaintiffs and the only point that arise for consideration is whether the plaintiffs are 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 A3 and Ext.C1 series (a) to (c) documents plaintiffs have established their 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. Permanent prohibitory injunction is granted restraining the defendants from trespassing into the plaint schedule property or from making use of the said property as a way or from committing any waste there in or from obstructing the completion of compound wall on the southern and eastern boundaries of the plaint schedule 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 October, 2017.

Sd/-
DONEY THOMAS VARGHESE
MUNSIFF

Appendix:

Exhibits for the plaintiffs:

A1	13.12.1996	Sale deed No.3840/96
A2	14.07.2000	Sale deed No.2396/2000
A3	14.03.2017	Tax receipt (2)

Exhibits for the defendants:Nil

Court Exhibits:

C1(a)	04.02.2016	Commissioner's mahazar prepared by Adv.Sri.B.Sivaprasad
C1(b)	“	Commissioner's report of -do-
C1(c)	“	Rough sketch of -do-

Witness for the plaintiffs:

PW1	19.10.2017	Preethi
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Witness for the defendant:Nil

Id/-
MUNSIFF

//True copy//

Typed by :vlb
Comd by :

MUNSIFF