

IN THE COURT OF THE MUNSIF, KOCHI

Present :- Sri.Krishnankutty K.V, LL.B., LL.M, Additional Munsiff

Thursday, the 8<sup>th</sup> day of September, 2016/17<sup>th</sup> Bhadra, 1938

**O.S.No.69/2010**

**Plaintiff:-**

K.M.Sabu, S/o.Madhavan, aged 40, residing at Kadavilparambil House, Vathuruthy, Matsyapuri P.O., Kochi-12.

By Advs. K.R.Vinod & Sainath V.

**Defendants:-**

1. P.M.Urmila, W/o.Jagannivasan, aged 40 years, residing at Sastha Nikethan, Vathuruthy, Matsyapuri P.O., Kochi-12.
2. K.V.Santhosh, S/o.Viswanathan, aged about 40 years, residing at Kadavilparambil House, Vathuruthy, Matsyapuri P.O., Kochi-12.

Addl.3. Sreedharma Sastha Trust, Reg. No.411/07, Vathuruthy, Rameswaram Village.

4. Mani Natarajan, Kadavilparambil, Vathuruthy, Rameswaram Village.
5. K.G.Prasad, Kadavilparambil, Vathuruthy, Rameswaram Village.

(Addl. D3 to 5 impleaded as per order in I.A. No.924/11 dated 04.01.12.)

D1 – By Adv.Anilkumar M.S. (exparte)

D2, 4 & 5 – By Adv.I.J.Augustine (exparte)

D3 – Exparte.

This suit come up for hearing before me on 05.09.2016 and the court on 08.09.2016 delivered the following:-

JUDGMENT

Suit for fixation of boundary and permanent prohibitory injunction.

2. Plaintiff averments in brief are as follows:- Plaintiff is the absolute owner and in possession of 2.413 cents of land comprised in Sy.No.1398/1 of Rameswaram Village, Kochi Taluk. He obtained the title and possession of the said property by virtue of the registered deed No.10/2003 of SRO, Kochi executed by his father. The said landed property consists of a residential building having the door No.25/119 of Corporation of Kochi wherein the plaintiff and his family are residing. The above said landed property and the residential building therein described as plaint schedule property. The plaint schedule property was actually obtained by the father of the plaintiff vide the settlement of his kudikidappu right in OA.1414/76 and the said property was having demarcation when it was assigned in favour of the plaintiff's father. However, by the time the demarcation on its southern side as well as western side have been obliterated by the respective property owners on the southern and western side by which the property is having no visible demarcation at this moment. It is submitted that the 1<sup>st</sup> defendant herein owns landed property on the

immediate western side of the property of the plaintiff. Now, the 1<sup>st</sup> and 2<sup>nd</sup> defendants persistently raises untenable boundary disputes that warranted the plaintiff to approach before this court for the fixation of the southern and western boundaries of the plaintiff's property. Hence the suit.

3. The 1<sup>st</sup> defendant filed written statement contending that he made construction attached to his residential building towards his southern boundary encroaching to the 1<sup>st</sup> defendant's property. He put building materials, slab etc and planted some vegetables in the defendants' property and seeing this, the defendants set a lawyer notice to the plaintiff. Without sending any reply to the defendants the above suit is foiled. Thus this suit is the counter blast of lawyer notice sent by this defendant. Even though the plaintiff is seen in possession of the building in the property laying on the northern side of the defendants' property for few days, this defendant is denying the ownership of the plaintiff over the plaintiff's property. Plaintiff is not the absolute owner of the 2.413 cents of property in Sy.No.1398/1 of Rameswaram village. The above suit is for fixation of boundary. Even then the owners of the boundaries were not impleaded in the suit and hence the suit is bad for non joinder of necessary parties.

4. Defendants also filed additional written statement stating

that plaintiff is more property than is entitled to commission report has not stated all things.

5. Defendants are called absent and set exparte. PW1 was examined and Exts.A1 & A2, C1 & C1(a) documents were marked. The proof affidavit and documents categorically prove the plaint claim. Therefore the decree can be safely be passed in favour of the plaintiff accordingly. Hence the suit is decreed.

In the result, suit is decreed with costs as follows:-

1. Southern and western boundaries of plaint schedule property is fixed as shown in Ext.C1(a) sketch.
2. Defendants are restrained by an order of permanent prohibitory injunction from further trespassing into the plaint schedule property and committing any waste, mischief, or any acts detrimental to the title, ownership and possession of the plaintiff in the plaint schedule property.
3. Plaintiff is also entitled to the costs of the suit.

Dictated to the Confdl. Asst. transcribed and typed by her and corrected by me and pronounced in open court on this the 8<sup>th</sup> day of September 2016.

Krishnankutty K.V.  
Additional Munsiff

APPENDIX

Plaintiff's Exhibits:-

- A1. 16.01.2003      The original of the will bearing No.10/2003 of  
SRO, Kochi.
- A2. 12.08.2015      The original of the building Tax payment Receipt.

Defendant's Exhibits:- Nil

Plaintiff's witness:-

PW1      05.09.2016      K.M.Sabu

Defendant's Witness:- Nil

Court Exhibits:-

- C1. 04.07.2015      Commission report filed by Adv. Joseph Edakkatt.
- C1(a)                      Sketch.

Additional Munsiff

css  
compd by: