

IN THE COURT OF THE MUNSIFF, KOCHI

Present :-Sri.Praveen Kumar G.,B.A.L.,LL.B, Principal Munsiff

Thursday, the 30th day of March, 2017, 9th Chaithra, 1939

O.S.No.141/2016

Plaintiff:-

V.A.Baby Thomas, S/o.Abraham, Vadassery House,
Palluruthy, Rameswaram Village, Kochi Taluk,
Pin – 682 006.

(Amendment carried out as per the Order in I.A.915/17
dtd.29.03.17)

By Advs.Paul Parakkal D., K.S.Sathis Babu,
Nimmy Joseph & Joby Kuriakose

Defendants:-

1. Kerala State represented by the District Collector,
Ernakulam, Civil Station, Kakkanad, Pin – 682 030.
2. The Corporation of Kochi, represented by its
Secretary, Corporation Office, Ernakulam, Kochi,
Pin – 682 035.
3. The Circle Inspector of Police, Palluruthy Circle,
Palluruthy, Pin – 682 006.

Exparte

The suit having been finally heard on 23.03.2017 and the
court on the same day, delivered the following:-

JUDGMENT

Suit for Permanent Prohibitory and Mandatory injunction.

2. Plaintiff's case, in brief, is thus. Plaintiff is
the owner of 'A & B' schedule properties, which lies

adjacent to each other and are separated by compound walls on all their sides. There is a vacant land on the western side of the properties, which is being used by the public for their access. The only way out from the plaint schedule properties is also this vacant land. If any obstruction is made on it, the passage of the plaintiff and others would be obstructed. It is the duty of the defendants to prevent any acts which may curtail the enjoyment of any person of this land. Plaintiff issued a notice on 27.11.15 to which, the 2nd defendant alone replied. 2nd defendant stated that they will not take any action, since it is a public pathway. Plaintiff apprehends that the pathway would be obstructed, if constructions are made in the open space. Hence, the suit.

3. Defendants remained *exparte*.

4. Plaintiff gave evidence as PW1 and marked Exts.A1 to A6.

5. The oral or documentary evidence adduced by the plaintiff is unchallenged, which shows that the plaintiff is the owner in possession of the 'A & B' schedule properties and there is a vacant land on the western side over which the public, including the plaintiff, has a right of access as such. The evidence further justifies the

apprehension of the plaintiff that the defendants may put up constructions with a view to obstruct it. Issuance of notice to the defendants is proved through Ext.A3(series). Though the plaintiff has claimed mandatory injunction to demolish the unauthorized constructions, the learned counsel for the plaintiff submitted that as of now, the property is free of any obstructions. So, the suit is decreed thus.

1. Defendants and men under them are permanently restrained from putting up any constructions whatsoever in the open space in front of the plaintiff schedule properties, on their western side.

2. Defendants are also ordered to pay the costs of the suit to the plaintiff.

Dictated to the Confdl.Asst, transcribed and typed by her, corrected and pronounced by me in open court on this the 30th day of March, 2017.

Praveen Kumar G.
Principal Munsiff

Appendix:

Plaintiff's Exhibits:-

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| A1. | Certified copy of Sale Deed No.372/1990 of Kochi Sub Registrar Office. |
| A2. | Certified copy of Sale Deed No.1015/1982 of Kochi Sub Registrar Office. |
| A3. 27.11.2015 | Office copy of notice send to the defendant with receipts and A.D cards. |

- A4. 12.01.2016 Reply notice by Cochin Corporation.
- A5. 22.12.2000 Certified copy of judgment in O.S.44/1995 of the Additional Munsiff's Court, Kochi.
- A6. 03.03.1997 Certified copy of judgment in O.P. (Writ)3758/1997 of the Hon'ble High Court of Kerala.

Defendant's Exhibits:- Nil

Plaintiff's Witness:-

PW1. 30.03.2017 V.A.Baby Thomas

Defendant's Witness:- Nil

Principal Munsiff.

sks
compd.by: