

IN THE COURT OF THE MUNSIFF, KOCHI

Present :-

Sri. Anirudhan T K, Additional Munsiff

Wednesday the 29th day of May, 2024/ 8th Jaishtha, 1946

O.S. No. 299/2022

Plaintiff:-

Rathesh Babu, aged 53 years, S/o.Gopalan, Karoth House, Pulaya's Road, Narakkal PO, Pin-682505

By Adv. Reena Abraham & Anumon V S

Defendants:-

- 1 Saju Joseph, aged 45 years, S/o.Joseph, Chiyedan Veedu, Pulaya's Road, Narakkal PO, Ernakulam, Pin-682505
- 2 Kathrina Joseph, aged 68 years, W/o.Joseph, Chiyedan Veedu, Pulaya's Road, Narakkal PO, Ernakulam, Pin-682505
- 3 Edward Benny, aged 21 years, S/o.Benny, Akanathu, Pulaya's Road, Narakkal PO, Ernakulam, Pin-682505

D1 & D2 By Adv. John K George, P T Manoj,
Gestine Mariam Joseph

D3 By Adv. Vipin Das M V & Silpa N P

This suit coming on for final hearing before me on 29.05.2024 in the presence of above advocates concerned and having stood over for consideration to this day, the Court delivered the following:-

JUDGMENT

Suit is one for mandatory injunction and for permanent prohibitory injunction.

2. **The plaintiff's case in short is as follows:-** That the plaintiff and his family are residing in the plaint A schedule property which he was obtained as per sale deed no.615/2000 of SRO, Njarakkal and he is paying it tax. The defendants are the neighbours of the plaintiff residing on three sides of plaint A schedule property. There is a plot near to the plaint A schedule property is in the ownership of the 1st defendant, and it is having an extent of $\frac{3}{4}$ cents. This property is described as plaint B schedule property. At present plaint B schedule property is being used as a waste dumping area. The residential house of the 1st defendant is situated 50 meters away from plaint B schedule property. Entire garbage from the house of 1st defendant and other waste materials like plastic, plastic bottles, food waste and other non-bio degradable wastes are being deposited in the plaint B schedule property. The plaint B schedule property is not fenced or closed by any compound wall and foul smell emanates from the garbage and food wastes deposited therein. Many times plaintiff has requested not to deposit such waste in the plaint B schedule property but without any result.

3. The 2nd defendant also depositing waste, food materials and other plastic items in the plaint B schedule property. The 3rd defendant brings his dog to the plaint B schedule property for its urination and performing other biological needs. During rainy season these waste materials from plaint B schedule property spreading out to the public

road thus making the area dirty and unhealthy causing difficulties to the public. On 09.08.2022 when the 1st defendant and his mother had thrown away a large plastic sheet to the plaint B schedule property the plaintiff requested them to remove the same, then they threatened him that plaintiff had to face with dire consequences. Thus, the defendants are causing much difficulties to the plaintiff and his family's healthy living, by creating unhealthy situation in the plaint B schedule property. Hence the plaintiff filed the suit.

4. The defendants were served summons but they were called absent and they were set ex-parte.

5. The plaintiff was examined as PW1 and Exts.A1, A2 and C1 were marked on the side of the plaintiff. Ext.A1 is the original tax receipt issued from Njarakkal panchayath dated 26.09.2022. Ext.A2 series are the photographs in (3 nos.) Ext.C1 is the commission report filed by the advocate commissioner.

6. Heard.

7. The evidence adduced by the plaintiff stands unchallenged and there is no reasonable ground to disbelieve the evidence of the plaintiff. Hence the plaintiff is entitled for the reliefs as prayed for.

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

1. The defendants are directed to remove all the waste dumped in the plaint B schedule property within a period of 30 days from this date and also directed the defendants to bear the costs for the same. Otherwise, the plaintiff can do the same and for it's costs the defendants would be liable.

2. The defendants, their men and agents are restrained from dumping waste of any nature including plastic, food waste, animal carcasses in the plaint B schedule property and also from bringing his domestic animal for performing nature's call in plaint B schedule property.

3. The defendants are jointly and severally directed 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 29th day of May 2024).

**Anirudhan T K
Additional Munsiff**

APPENDIX :-

Plaintiff's Exhibits:-

A1	26.09.2022	Copy of Land Tax Receipt issued by Njarakkal Village
A2 series		Photographs (3 Nos)

Defendant's Exhibits:- Nil

Court's Exhibits:-

C1	20.08.2023	Commission Report submitted by Adv.Sandeep V G
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Witness Exhibits Nil

Plaintiff's Witness:-

PW1 17.01.2024 Ratheesh Babu

Defendant's Witness:- Nil

Court's Witness:- Nil

Additional Munsiff

//True Copy//

Additional Munsiff

SS
Comp. by

JUDGMENT

O.S. No.299/2022

Dated: 29.05.2024

