

IN THE COURT OF THE MUNSIFF, KOCHI

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

Friday, the 4th day of December, 2015/13th Agrahayana , 1937

I.A.No.3144/2015 in O.S. No.437/2015

Petitioners/Plaintiffs:-

1. Alexander K.J., S/o. Joseph, aged 65 years, Kattiparambil House, Palluruthy Village, Cultus Road, Perumbadappu, Kochi Taluk.
2. Jija Shaji, D/o. Philomina Shaji and W/o. Ciby Allex, S/o. K.X.Alex, Karikkamuri parambil house, South Kaloore, Kochi – 682 017.

By Adv. Joseph Edakkatt

Respondent/Defendant:-

Elsy @ Elizebath, aged about 54 years, W/o. Late Antony, Panakkal House, Kumbalanghi and D/o. Joseph and Kathreena, Kattiparambil House, Perumbadappu, Palluruthy Village, Cultus Road, Near Jenani Reading Room.

No Vakkalath

This petition filed under Order 39 Rule 1 and 2 read with section 151 of the code of Civil Procedure to restrain the respondent/defendant by means of temporary prohibitory injunction from doing any construction activities in her property and also direct the respondent by a mandatory injunction to dismantle/demolish all the works of construction done by her after first commission inspection dated 13.10.15 and all works done by the respondent in between the two reports filed by advocate commissioner in answer to I.A 2565/15 and I.A 2939/15.

The petition having been finally heard on 04.12.2015 and the court on the same day, passed the following:-

ORDER

Heard and perused the records.

2. Vide order dtd: 12.11.2015 in I.A.2564/2015, the defendant was restrained from effecting constructions in violation of the Kerala Municipality Building Rules, till the disposal of the suit. Plaintiff has alleged that the defendant, in violation of the aforesaid injunction order, has been continuing

with the constructions. Plaintiff has filed I.A.2940/2015 under O 39 R 2A CPC for prosecution. In the first commission report, it is stated that only the structure of the building is completed and it is not plastered and the doors and windows were not fixed. The same commissioner was deputed for the second time to ascertain whether the defendant had made further constructions after the order of injunction. The second commission report shows that the whole 'B' schedule property is plastered. It is reported that construction materials have been loaded in front of the property and door and windows were fixed with iron grills. Therefore, prima facie, it is clear the defendant has continued with the constructions after the passing of the injunction order. There is nothing on record, at this stage, to find that the constructions are in tune with the Building Rules. It must be noted that the suit is for fixation of boundaries of the plaint 'A and B' schedule properties. In view of the above and considering the allegation of the plaintiff that without ascertaining the actual boundary between the properties, if the defendant is permitted to effect the constructions, that would prejudicially affect the rights of the plaintiff, the defendant is restrained from effecting any sort of further constructions in her property until further orders.

Dictated to the Confdl. Asst. transcribed and typed by her corrected and pronounced by me in open Court on this the 4th day of December, 2015.

Praveen Kumar .G
Principal Munsiff

APPENDIX: Nil

Principal Munsiff

sks
compd by: