

IN THE COURT OF THE MUNSIFF AT ALUVA
Present:-Smt. Sindhu Thankam. M, B.Sc.,L.L.M, Munsiff
Friday, the 15th day of February 2019/26th Magha 1940
OS No.129/2014

Plaintiff:-

Thomas, aged 56 years, Farmer, S/o. Ouseph,
Kallarackal House, Kidangoor Kara, Angamaly Village,
Aluva Taluk.

By Adv: Maitheen. M. Pareeth.

Defendant:

Little Flower Hospital, Running at Angamaly Kara,
Angamaly Village, Aluva Taluk, Rep. by Present Director
(By Adv: Praveen K.Joy) Exparte

This suit filed under Order VII Rule 1 and Section 26 of C.P. C.

This suit having come up for hearing before me on 08.02.2019
and court on 15.02.2019 delivered the following.

JUDGMENT

Suit is for permanent prohibitory injunction.

2. Averments in the plaint in brief are as follows:- Plaint schedule property is in the ownership and possession of the plaintiff. Earliher, paddy cultivations were conducted in the property and due to the non availability of workers, he cultivated plantain there. Plaint B schedule is a way starting from Vengoor-Kidangoor road leading to plaint A schedule property. For the last 100 years, the plaintiff and his predecessors are using that way for their access to plaint A schedule property. So, he is entitled for easement by necessity over plaint B schedule property. Now the defendant purchased the properties on the boundaries of plaint A schedule property and

reclaimed it except the way used by his predecessor. They are trying to obstruct the plaintiff from using plaint B schedule way. They excavated sand from the south-western side of plaint B schedule property and closed the way by constructing compound wall. They are also obstructing the plaintiff from constructing wall along plaint B schedule property to his field. Hence the suit.

3. Though defendant filed written statement, when the case was listed for trial he remained absent and were set exparte.

4. The the plaintiff is examined as PW1. He filed proof affidavit and marked Exts.A1 to A3, C1, C1(a), C2 and C2(a). Ext.A1 is the certified copy of Sale Deed No.1729/1984. Ext.A2 is the tax receipt issued by the Ankamaly Village Office dated 25.04.2018 in favour of the plaintiff. Ext.A3 is certified copy of sale deed No.385/1997. Ext.C1 is the commission report and C1(a) is the rough sketch. Ext.C2 is the commission report and C2(a) is the survey plan.

5. From the proof affidavit and documents Exts.A1 to A3, C1, C1(a), C2 and C2(a) the case of the plaintiff is unchallenged and plaint claim stands proved.

In the result, the suit is decreed as follows:

- i) Defendant and men under them are restrained from obstructing the plaintiff in taking tractor and other vehicles through plaint B schedule way leading to the plaint A schedule property and using plaint B schedule for his irrigation purpose. They are also restrained from reclaiming plaint B schedule and committing any waste therein.
- ii) Plaintiff is allowed to realise costs of the suit from the defendant.

Dictated to the Confdl. Asst, transcribed and typed by him, corrected by me and pronounced in open court on this the 15th day of February, 2019.

Sindhu Thankam. M
Munsiff

Appendix:

Plaintiff's Exhibits:

A1	18.05.1984	Certified copy of Sale deed No. 1729/1984 of SRO Angamaly.
A2	25.04.2018	Tax Receipt by Village Office Angamaly.
A3	12.12.1996	Certified copy of Sale deed No. 385/1996.

Defendant's Exhibits: Nil

Court Exhibits :

C1	08.04.2014	Commission report by Adv. Shaju M S
C1(a)	Rough sketch.
C2	09.11.2018	Commission report by Adv. Jayas. M P
C2(a)	Sketch.

Plaintiff's Witness:

PW1	08.02.2019	K .O. Thomas
-----	------------	--------------

Defendant's Witness :Nil

Court Witness :Nil

Munsiff