

IN THE COURT OF THE MUNSIF, PERUMBAVOOR

Present:- Smt. Alshari A., Civil Judge (Junior Division)

Monday, the 16th day of December, 2024 / 25th Agrahayana, 1946.

I.A.No. 1/2022
in
O.S. No. 245/2016

Petitioner/Defendant:-

Jayan, aged 54 years, S/o. Velayudhan, Mangattukunnathu House, Iringole Kara, Perumbavoor Village.

By Adv. M.U. Devassykutty

Respondent/Plaintiff:-

Sunitha, aged 45 years, W/o. Anil, Padikkamaly House, Punnekkattu Oottappannal, Keerampara Village, Kothamangalam Taluk.

By Advs. P.G. Dileepkumar & Lathiya Gopalan.

This petition having been finally heard before me on 16.12.2024 and the court on the same day delivered the following:-

O R D E R

1. This is a petition filed to remit back the commission report.
2. According to the petitioner, the commissioner had filed report and plan as per the order in I.A 2208/2019. As there are fatal mistakes in the commission report, it cannot be accepted in evidence. The extent of defendant's property shown as 3.35 Ares instead of 3.33 Ares is not correct. The width of the Panchayat road measured is not correct. The actual width of the way is not shown. The eastern and western boundary

of the defendant's property shown are not correct. The measurement is not started by verifying the boundary stones. The extent and boundary of the defendant's property is wrongly identified and therefore, the commission report is not sustainable. Hence, it is to be remitted back.

3. The respondent had filed objection by stating that, there is absolutely no sufficient reasons to remit back the commission report. There is no reference to the extent of the property of the defendant to be 3.35 Ares in the commission report. Defendant had obtained the property with an extent of 3.36 Ares as per the partition deed bearing no. 358/1992 and the it is shown in rose colour in commission report. The property of the defendant lying abutting to the puramboke is shown in yellow shaded colour. It is not necessary to verify the asset register of Panchayat. The petition is not maintainable and therefore, the petition is to be dismissed.
4. Heard both sides.
5. According to the petitioner, property of the defendant is not identified properly and therefore, the commission report submitted is to be remitted back. On going through the commission report, it can be seen that, the property of the defendant with an extent of 3.33 Ares covered by the document bearing No. 358/92 is shown and there is no reference to the extent of property that belonged to the defendant to be 3.35 Ares as alleged in the petition. The property which stands in the possession of the defendant is noted to be having an extent of 3.60 Ares. Plot No. 2 is noted to be the encroached portion. The property of the defendant which is seen to be lying abutting to the road puramboke. It is noted to be having an extent of 0.02 Ares and it is shown in yellow colour. By excluding the encroachment and by excluding the plot No. 5 noted to be lying abutting to the road puramboke, the defendant is in possession of the property having an extent of 3.33 Ares covered by the partition deed and it is shown as plot No. 4. The suit is filed seeking for perpetual

injunction and mandatory injunction to remove the alleged encroachment of the defendant. The matter in adjudication is pertaining to plaint A schedule property alone and whether there is encroachment upon the plaint A schedule property that belonged to the plaintiff. When the defendant is noted to be in possession of the property covered by the document bearing No. 352/1992, which is having an extent of 3.33 Ares apart from the plot No. 2 noted to be part of plaint schedule property, as per the commission report, then there is no necessity to identify the width of the way as alleged in the petition. On going through the commission report, it can be seen that, the property of the defendant also is clearly identified and noted and there is absolutely no necessity to remit back the commission report. Hence, I could not see any mistakes in the commission report to be rectified as alleged. Therefore, I could not find the commission report to be remitted back as prayed for. Hence, the petition stands dismissed.

6. In the result, the petition stands dismissed.

Dictated to the confdl. asstt., transcribed and typed by her, corrected and pronounced by me in open court on this the 16th day of December, 2024.

Sd/-
ALSHARI A.,
Civil Judge (Junior Division).

APPENDIX
NIL

Id/-
Civil Judge (Junior Division)
(By Order)

// True Copy //

Sd/-
Junior Superintendent.

jpp/-
Compd.by : smn.

Copy of Order in
I.A. No. 1/2022 in
O.S. No. 245/2016
Dated : 16.12.2024