

IN THE COURT OF THE MUNSIFF, PERUMBAVOOR

Present:- Sri. Atheek Rahman, Munsiff

Monday, the 4th day of April, 2022/ 14th Chaithra, 1944.

IA No. 4/2022 in OS 360/2019

Petitioner/ 10th Defendant:-

Rajappan, Aged 70 years, S/o. Krishnan, Kallarkudy House,
Kavumpuram P O, Koodalappadu Kara, Koovappady Village.

By Adv. T V Eldho

Respondents/Plaintiffs 1 to 9, Defendants 11 to 14:-

1. Kuttan, Aged 61 years, S/o. Sankaran, Kallarkudy House,
Koodalappadu Kara, Koovappady Village, Ernakulam District.
2. Chandran, Aged 63 years, S/o. Sankaran, Kallarkudy House,
Koodalappadu Kara, Koovappady Village.
3. Thankamma, Aged about 60 years, W/o. Parameswaran,
Kallarkudy House, Kavumpuram P O, Aimury Kara,
Koovappady Village.
4. Vanaja Manoj, Aged 49 years, W/o. Manoj, Kallarkudy House,
Kavumpuram P O, Aimury Kara, Koovappady Village.
5. Anandhu Manoj, Aged 19 years, S/o. Manoj, Kallarkudy
House, Kavumpuram P O, Aimury Kara, Koovappady Village.
6. Vanaja, Aged 50 years, D/o. Parameswaran, Kallarkudy House,
Kavumpuram P O, Aimury Kara, Koovappady Village.
7. Shobha, Aged about 46 years, D/o. Parameswaran, Kallarkudy
House, Kavumpuram P O, Aimury Kara, Koovappady Village.
8. Sindhu, Aged 44 years, D/o. Parameswaran, Kallarkudy House,
Kavumpuram P O, Aimury Kara, Koovappady Village.
9. Bindhu, Aged 44 years, D/o. Parameswaran, Kallarkudy House,
Kavumpuram P O, Aimury Kara, Koovappady Village.

10. Ammini, Aged 70 years, W/o. Kunjappan, Velloppattil House, Aimury Kara, Koovappady Village.
11. Balan, Aged 48 years, S/o. Krishnan, Kallarkudy House, Kavumpuram P O, Koodalappad Kara, Koovappady Village.
12. Ammini, Aged 68 years, W/o. Kuttan, Panedathu Parambil House, Mattoor Kara, Mattoor Village.
13. Vijayamma, Aged 58 years, W/o. Sasikumar, Aalukkal House, residing at Ottamaram Kara, Koodikkil House, Kanjirappilly Taluk, Kottayam District.
14. Bharathi, Aged 55 years, W/o. Chandran, Perakathu House, Elangadu Kara, Kuttikkil Village, Kanjirappilly Taluk, Kottayam District.

R1 - By Advs. Ciju I S and Sonnet Paul
R2 to R12 - Exparte
R13, R14 - No vakkalath

This petition having been finally heard on 25/03/2022 and the court on 01/04/2022 passed the following:-

ORDER

1. This petition is filed by the petitioner/10th defendant u/s. 151 of CPC. The petition is supported by an affidavit sworn by the petitioner.
2. Brief averments in the affidavit are as follows:- Petitioner is residing in the house situated in the plaint schedule property. Since the standing trees are causing nuisance and threat to petitioner, he had filed I.A 2/21. But, the said petition was dismissed since no commission was taken out. Against the said order petitioner filed OP(C) No. 2266/2021 before the Hon'ble High Court of Kerala. In the said OP the Hon'ble High Court directed the petitioner to file commission application before the this court. On the western side of the plaint

schedule property a mango tree and southern side of the plaint schedule property a banyan tree, a wild jack tree and three jack trees are standing near to the boundaries. That apart, near to the western side of plaint schedule property a jack tree, three coconut trees and a mango tree are standing. A mango tree standing near to the western side boundary of the plaint schedule property is causing threat to the house of George, Marottickudy House who is residing on the western side of the plaint schedule property. Further, a banyan tree, wild jack tree and three jack trees standing near to the southern side boundary is causing threat to the house of Rajan John who is residing on the southern side of the plaint schedule property. It is also averred that the jack trees standing near to the northern side boundary, a mango tree, three thambakam trees, coconut tree and a wild jack tree standing on the middle portion of the plaint schedule property is also a threat to the house situated in the plaint schedule property. If the branches fell down, it may cause casualty. Recently, a banyan tree fell down in the plaint schedule property. In the said circumstances, Sanil E.S, the Panchayat ward member of the Okkal Grama Panchayat filed an application before the RDO, Muvattupuzha for issuing direction to petitioner to cut and remove the standing trees which are causing as nuisance and threat to the neighbouring properties. The reply issued by the RDO filed along with the petition. Hence, it is highly necessary to cut and remove the branches of the trees.

3. Respondents did not file any objection. Along with petition, petitioner filed I.A 5/22 for issuing a commission. As per order in I.A 5/22, Advocate commissioner inspected the property and filed detailed report with list of the standing trees which are causing nuisance and threat to the house situated in the plaint schedule property as well the neighbouring properties. The said

commission report and rough sketch were marked as Ext. C1 and C1(a) respectively.

4. I have perused the commission report and affidavit in support of the petition. I am satisfied that the branches of the trees mentioned in the list can be cut and removed in the presence of the Advocate commissioner who prepared Ext. C1 commission report in order to avoid threat and nuisance mentioned in the affidavit in support of the petition.
5. In the result, the petition is allowed as follows:-

The petitioner is permitted to cut and remove the branches of the trees standing in the plaint schedule property mentioned in the list in the presence of the Advocate commissioner who prepared Ext. C1 commission report. Advocate commissioner shall issue notice to both sides before the visit. Commission batta is fixed as Rs. 3,000/-. Petitioner is directed to pay commission batta directly to the commissioner and file memo. Further, Advocate Commissioner is directed to file report after completing the work within 7 days.

Dictated to the confdl.asstt., transcribed and typed by her, corrected and pronounced by me in open court on this the 01st day of April, 2022.

Sd/-
ATHEEK RAHMAN
MUNSIFF

Appendix

Petitioners Exhibits :- Nil

Defendants' Exhibits :- Nil

Court Exhibits :-

C1 & - 21/02/2022 - Commission report and rough sketch filed by the
C1(a) Advocate commissioner Smt. Vandana Jayan

Witnesses both sides :-Nil

Id/-
Munsiff
(By Order)

// True Copy //

Junior Superintendent

Typed by: jav
Compd.by :

Copy of Order
in
IA No. 04/22 in OS 360/19
Dated : 01/04/2022