

IN THE COURT OF THE MUNSIF, DEVIKULAM

Present: Sri. ANAND A. B., MUNSIF.

On Wednesday the 31st day of August, 2022/9th day of Bhadra 1944.

ORIGINAL SUIT No. 77/2020

Plaintiff:

1. G.Kanakaraj, aged 60 years, S/o. Late.Guruswamy, Door No. MGP XIII/383, Moolakada, Munnar P.O, KDH Village now Munnar Village, Devikulam Taluk.
2. G.Balasubramanian, aged 53 years, S/o. Late.Guruswamy, Door No. MGP XIII/383, Moolakada, Munnar P.O, KDH Village now Munnar Village, Devikulam Taluk.
3. G.Ayyappan, aged 50 years, S/o. Late.Guruswamy, Door No. MGP XIII/383, Moolakada, Munnar P.O, KDH Village now Munnar Village, Devikulam Taluk.

By Adv.Sri. Pailo Raju Olickal

Defendants:

1. S.A Balasubramaniam, aged about 51 years, S/o. S.Arumugam, Door No. MGP XIII/384, Moolakada, Munnar P.O, KDH Village now Munnar Village, Devikulam Taluk.
2. Rajeswary, aged about 46 years, W/o. S.A Balasubramaniam, Door No. MGP XIII/384, Moolakada, Munnar P.O, KDH Village now Munnar Village, Devikulam Taluk.
3. Nishanth, aged about 19 years, S/o. S.A Balasubramaniam, Door No. MGP XIII/384, Moolakada, Munnar P.O, KDH Village now Munnar Village, Devikulam Taluk.
4. Arumugam, aged about 74 years, S/o. Sithran, Door No. MGP XIII/384, Moolakada, Munnar P.O, KDH Village now Munnar Village, Devikulam Taluk.

Exparte (By Adv.Sri. Thomas Paul)

This suit coming on for hearing before me on 27/08/2022 in the presence of plaintiff's counsel and the court on 31/08/2022 delivered the following:-

J U D G M E N T

1. The suit is for permanent prohibitory injunction.

2. Plaint averments in brief is as follows: The plaintiffs are the children of Late. Pappa Guruswamy who was expired on 13/04/2015. Late. Pappa Guruswamy was in absolute possession and enjoyment of 2.45 cents of patta land comprised in survey number 61/6 and a residential building bearing numbered MGP XIII/383 of KDH village. The said property is more specifically described as the plaint schedule property hereinafter. Late. Pappa Guruswamy obtained the plaint schedule property as per sale deed numbered 1073/87 of SRO, Devikulam dated 25/05/1987. Mutation has been effected in the name of Late. Pappa Guruswamy and she was paying the basic land tax till the 2016-2017, later the tax was not accepted for want of verification in KDH village and the same is in process. Late. Pappa Guruswamy had executed a registered Will numbered 108/III/2014 dated 05/12/2014 of SRO, Devikulam in respect of plaint schedule property in favour of the plaintiffs. After her death the plaintiffs are in absolute possession and residing therein as a joint family. The residential building is in the name of the plaintiffs and they are paying building tax. The plaint schedule property is properly demarcated and separable from adjacent properties. Eastern boundary of the plaint schedule property is the property of Sri. Pandurangan. Southern boundary of the plaint schedule property is Moolakkada-Munnar Panchayath Dispensary Road. Western boundary of the plaint schedule property is the property of defendants which is separated by a common wall. Northern boundary of the plaint schedule property is road towards Aida Tourist Home. On 16/05/2020 the defendants

tried to trespass into the backyard of the plaintiff's property through the eastern boundary and the defendants even manhandled the 1st plaintiff, his wife and 3rd plaintiff's wife and even destroyed the fencing and flowerpots. The timely intervention of the plaintiffs prevented the defendants' illegal attempt. The plaintiffs have lodged an FIR on 16/05/2020 at 6 p.m. of Munnar Police Station. Again on 18/05/2020 the defendants tried to trespass into the plaintiff's property and also created unruly situation. It seems the attempt was to provoke the plaintiff with mala fide intentions. It is also understood by the plaintiffs that the defendants are making hasty preparation to commit trespass into the plaintiff's property with deadly weapons and try to take forcible possession thereof. The defendants are up to do anything. They are able to achieve anything with Political and muscle power. The plaintiffs are unable to prevent the further illegal attempt of the defendants without the intervention of this Hon'ble Court by a decree of permanent prohibitory injunction or else the plaintiffs will be put into irreparable loss, injury and hardships that cannot be compensated in terms of money. Hence this suit.

3. Though the defendants appeared through counsel, they did not file written statement and was called absent and set ex-parte.

4. Thereafter PW1 was examined and Exts.A1 to A6 were marked through PW1 from the side of the plaintiff. A commission for local inspection was deputed by the court. The commissioner has identified the plaintiff's property and submitted a report and the same was marked as Exhibit C1 and the sketch annexed thereto as Exhibit C1(a).

5. Heard the learned counsel for the plaintiff.

6. It was argued that the unchallenged testimony of plaintiff as PW1 and Exts.A1 to A6 and Ext.C1 series would prove and establish the case of the plaintiff in this case. The

possession of the plaintiff over the plaint schedule property is also proved in this case. Defendants have no right or possession over the plaint schedule property in this case. Hence if a decree of prohibitory injunction as sought for is not granted in favour of the plaintiff, he will be put to more irreparable injury and loss than the defendants in this case. Therefore the suit may be decreed in favour of the plaintiff.

7. The oral testimony of the PW1 and documentary evidence adduced before the court remains unchallenged. Ext. A1 is the Sale deed No. 1073/87 dated 25/05/1987 of SRO, Devikulam. Ext. A2 is the Copy of Basic land tax receipt No. 4150032 dated 06/04/2016 issued by Village Officer, Devikulam Village. Ext. A3 is the Registered Will No. 108/III/2014 dated 05/12/2014 of S.R.O, Devikulam. Ext.A4 is the Internet payment receipt of building Tax receipt No. 6057911000026 dated 08/05/2019 of Munnar Grama Panchayath. Ext. A5 is the Basic land tax receipt No. 1593757 dated 21/04/2022 issued by Village Officer, Munnar Village. Ext.A6 is the Internet payment receipt of building Tax receipt No. 6057911000237 dated 18/01/2022 of Munnar Grama Panchayath. There is no evidence or arguments to disprove or to disbelieve or to controvert the above arguments raised by the learned counsel for the plaintiff in this case. Hence I find that plaintiff has proved his case. Therefore I find that plaintiff is entitled to get a decree of prohibitory injunction in his favour and the suit has to be decreed in favour of the plaintiff in this case.

In the result the suit is decreed as follows:-

- a) The defendant and men under them from perpetually restrained from trespassing upon the plaint schedule property, committing waste and mischief thereon and doing any act which will disturb the plaintiff's peaceful possession and enjoyment of the plaint schedule property.

b) The plaintiff is entitled to recover the costs of the suit from the defendants.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open Court on this the 31st day of August 2022.)

**ANAND.A.B.,
MUNSIF.**

APPENDIX

Plaintiff Exhibits:

- A1 - 25/05/1987 Sale deed No. 1073/87 of SRO, Devikulam.
- A2 - 06/04/2016 Copy of Basic land tax receipt No. 4150032 issued by Village Officer, Devikulam Village.
- A3 - 05/12/2014 Will No. 108/III/2014 of S.R.O, Devikulam.
- A4 - 08/05/2019 Copy of Internet payment receipt No.6057911000026 issued by Munnar Grama Panchayath.
- A5 - 21/04/2022 Basic land tax receipt No. 1593757 issued by Village Officer, Munnar Village.
- A6 - 18/01/2022 Copy of Internet payment receipt No.6057911000237 issued by Munnar Grama Panchayath.

Defendant Exhibits: NIL

Court Exhibits:

- C1 - 08/06/2020 Commission report filed by Adv.Vivek Bharath.R,
Commissioner Advocate.
- C1(a)- 08/06/2020 Rough sketch and one photo of the plaint schedule property filed
along with above Commission report.

Plaintiff Witness :

PW1- 27/08/2022 G.Balasubramaniam.

Defendant Witness : NIL

Court Witness : NIL

**ANAND A. B.,
MUNSIFF.**

**Typed by : Rejanimol.V.P
Compared:**

FAIR JUDGMENT

IN

O.S.No. 77/2020 dated 31/08/2022