

IN THE COURT OF MUNSIFF PUNALUR.

Present :- Sri.S.Sudheeshkumar, B.Sc,L.L.B. Munsiff.

Tuesday the 31st day of March, 2015/10th day of Chaithram, 1937.

OS.1/2010

Between

Plaintiff:-

T.G.Varghese, aged 58, S/o.K.V.Varghese, Thottathil Kalayil,
Kazhuthurutty P.O., Aryankavu Village, Pathanapuram Taluk.

(By Adv. S.S.Prasantha Kumar)

And

Defendants:-

1. Uthaman, S/o.Vasu, aged 40, Kairali Bhavan, Kazhuthurutty P.O.,
Aryankavu Village, Pathanapuram Taluk.
2. Lalitha Udaya Kumar, D/o.Sreedharan, aged 50,
Sankaramangalam, -do-

(By Adv. P.C.Sivaraja Pillai)

This suit is filed U/S 26 Order 7 and Rule 1 of CPC 1908.

This suit is having been finally heard on 25-03-15 and having stood for the consideration of the court on 31-03-2015 and on the same day the court delivered the following.

JUDGMENT

1. Suit is for fixation of boundary and for injunction.
2. Plaintiff allegation can be summarized as follows:-

First and 2nd defendants who are the property owners on the east and west of plaintiff schedule property effected construction encroaching plaintiff schedule property. So plaintiff pressed for fixation of boundary, mandatory and prohibitory injunction.

3. Defendants filed written statement resisting plaintiff allegation. The averments in the written statement can be summarized as follows:-

Suit is not maintainable either under law or on facts. Plaintiff schedule description is not correct. Property situate on the eastern side of plaintiff schedule property belong to first defendant. Property situate on the western side of plaintiff schedule property owned by husband of 2nd defendant. First defendant acquired property by virtue of deed No.349/98. 2nd defendant acquired property by virtue of settlement deed No.1421/2001 those properties are scheduled as written statement first and 2nd schedule properties. The plaintiff allegation that plaintiff constructed house leaving 2 feet on the eastern side of plaintiff schedule property is false. House constructed by predecessors of plaintiff. Building constructed close to the eastern boundary of plaintiff schedule property. The plaintiff allegation of trespass and illegal construction of staircase and compound wall is false. As plaintiff advanced obscene acts to one Nishila who was assisting wife of first defendant petitions were preferred against plaintiff. In order to wreck vengeance plaintiff advanced false petitions against 1st defendant and Nishila. The compound wall separating plaintiff schedule property and written statement 2nd schedule property is having the age of 50 years. As plaintiff urinated close to the compound wall in order to avoid further disturbances 2nd defendant increased height of compound wall. Plaintiff on 11.05.10 threatened to demolish compound wall of written statement schedule properties. Hence the counter claim.

4. Heard both sides. Following issues settled in this case are
 1. Whether the plaintiff has got title and possession over plaintiff schedule property as claimed?

2. Whether the plaintiff is entitled to a mandatory injunction as prayed for?
3. Whether the plaintiff is entitled to the relief of fixation of boundary as claimed?
4. Whether the defendant has got right and possession over the counter claim schedule properties as claimed?
5. Whether the defendants are entitled to the relief of injunction as claimed?
6. Whether the description of counter claim schedule property are correct?
7. Relief and cost?

When the case was enlisted for trial on 18.03.15 defendants was present. Plaintiff did not appear before court. Hence suit dismissed. Defendants filed chief affidavit and produced Ext.B1 to B6. Commission report, mahazar and plan were marked as Ext.C1 to C3.

Defendants proved written statement allegation on the strength of chief affidavit, Ext.B1 to B6 and C1 to C3. The unchallenged written statement allegation stands proved with the assistance of B1 to B6 and C1 to C3. Hence counter claim decreed as follows:-

1. Suit dismissed.
2. Counter claim decreed as follows:-
 1. Counter claim defendant is hereby restrained by decree of permanent prohibitory injunction from trespassing into written statement 1st and 2nd schedule properties, demolishing it's boundary structures, demolishing the building situate therein and staircase situate in the same.

2. Counter claimants are entitled to realize cost of the suit from plaintiff and from his assets.

Dictated to the Confidential Assistant transcribed and typed by her, revised and corrected by me and pronounced in Open Court on this the 31st day of March, 2015.

Sd/-
Sudheesh Kumar. S,
Munsiff

Appendix

Exhibits for the Plaintiff:- Nil

Exhibits for the defendants:-

- | | | |
|----|----------|---|
| B1 | 02.02.98 | Certified copy of sale deed No.349/98 of SRO, Punalur |
| B2 | 29.03.01 | -do- settlement deed No.1421/2001 of SRO, Punalur. |
| B3 | 20.06.98 | Tax receipt No.5 of Aryankavu Village |
| B4 | 25.08.08 | Tax receipt No.2439215 of -do- |
| B5 | 25.03.15 | Reply under R.I.Act, 2005. |
| B6 | -do- | -do- |

Court Exhibits:-

- | | | |
|----|----------|--|
| C1 | 31.12.12 | Report filed by Commissioner Adv.K.K.Surendran |
| C2 | -do- | Mahazar -do- |
| C3 | -do- | Plan -do- |
| C4 | -do- | Rough sketch -do- |

Id/-
Munsiff

//True Copy//

Typed by : Lissy.A
Compd by :

Munsiff