

IN THE COURT OF THE MUNSIFF-MAGISTRATE, SASTHAMCOTTA.
Present : Sri. ANIL KUMAR T. S., MUNSIFF

Monday the 26th day of June, 2023
5th day of Ashada, 1945

OS.33/20

Between

Plaintiffs

- 1) Anil Kumar, aged 38 years, S/o. Kamalasanan, Karimpalil Kizhakkathil, Muthupilakkadu Padinjaru Muri, Sasthamcotta Village.
- 2) Lalithamma, aged 68 years, W/o. Kamalasanan, - do -

(By Adv. Sri. Arujunan N. Kaithapuzha)

And

Defendants

- 1) Sivan Pillai, aged 57 years, Arun Nivas, Muthupilakkadu Padinjaru Muri, Sasthamcotta Village.
- 2) Soudamini, aged 50 years, W/o. Sivan Pillai, - do -

(Defendants set exparte)

This suit coming on for final hearing before me on 26/06/2023 and on the same day the court delivered the following:-

J U D G M E N T

Suit for injunction.

2. The plaint averments in short are as follows:- The plaintiffs are the owners of Plaint A and B schedule properties by virtue of partition deed number 2281 and settlement deed number 2282 dated 04.08.2014 of

Sasthamcotta SRO. The properties are in the possession and enjoyment of the plaintiffs. The plaint A and B schedule properties are situated in a single compact plot. The properties have well defined boundaries.

3. The defendants are the property owners on the western side of the plaint schedule properties. Their property situates in the same plane of the plaint schedule property. They are making preparations to remove earth from their property in large scale and the plaintiff have filed complaints before the Sasthamcotta Panchayath Secretary on 11.12.2017, 03.04.2019 and on 05.12.2019. The plaintiffs filed complaints before the District Collector also on 07.03.2019. However, the defendants are politically influential persons and they are preparing to remove the soil from their property. If the defendants unauthorisedly removed earth, that will be detrimental to the lateral support of the plaint scheduled property. In the above circumstances, the plaintiffs filed this suit.

4. The defendants entered appearance but they have not filed written statement. Hence the defendants are set exparte.

5. In evidence the plaintiff filed affidavit in lieu of chief examination, wherein all the plaint averments have been reaffirmed. Exts.A1 to A4 and Ext. C1, commission report are marked from the side of the plaintiff. Exts A1 partition deed and A2 settlement deed proves that the plaintiffs are the owners of the plaint schedule properties. Ext A3 and A4 tax receipts show that the plaint schedule properties are mutated in favour of the plaintiffs. In Ext. C1 commission report, the Advocate Commissioner has reported that if the soil is excavated from the property owned by the defendants that would damages to the plaint schedule properties and the house situated in it. The evidence adduced by the plaintiffs remain unchallenged. The apprehension expressed by the plaintiffs regarding damage to lateral support of their property in the event of large scale removal earth from the property of the

defendants is well founded and therefore the plaintiffs are entitled for the reliefs claimed.

In the result the suit is decreed as follows.

i) The defendants or persons under them are restrained by permanent prohibitory injunction from removing earth from their property causing damages to lateral support of the plaint schedule properties.

ii) In the circumstances of the case there is no order as to costs.
(Dictated to the Confidential Assistant, typed by him corrected and pronounced by me in open court, this the 26th day of June, 2023)

Sd/-
ANIL KUMAR T. S.
MUNSIFF

APPENDIX :

Exhibits marked from the side of the Plaintiff

A1	-	04/08/14	-	Partition Deed No.2281/14
A2	-	04/08/14	-	Settlement Deed No.2282/14
A3	-	06/03/19	-	Tax receipt
A4	-	06/03/19	-	Tax receipt

Exhibits marked from the side of the Defendants : NIL

Court Exhibits

C1	-	Commission report and Mahazar prepared by Commissioner Advocate Sri. C. K. Vijayanandan
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Witnesses examined from the side of Plaintiff

PW1	-	22/03/23	-	Anil Kumar K. K.
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Id/-
MUNSIFF

//True copy//

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