

IN THE COURT OF THE MUNSIFF - MAGISTRATE, S.PARAVUR

Present: Smt. Sony A.S., B.Sc, LL.B, Munsiff – Magistrate

Tuesday 06th day of January, 2015/ 16th day of Pausham, 1936

O.S No. 57/2013

Between
Plaintiff

: Raju,
S/o Divakaran,
Aswathy Mana,
Meenadu Village,
Chathanoor.

(By Adv.Sri. K. S. Vinod)

And
Defendants

1 : Somarajan, Aged about 64 yrs,
S/o Chandran,
Kizhakkekochu Veedu,
Thazhathu Cherry,
Meenadu Village,
Chathanoor.

2. : Sarojini, aged about 59 yrs.,
W/o Somarajan,
-do- -do-

(By Adv. Sri. N. B. Sajeeshkumar)

This suit filed U/S 26, Order IV, VI, and VII, Rule 1 and 2 of the C P C
This suit coming before me on 06-01-2015 and on the same day the court
delivered the following:-

ORDER

Suit for declaration and permanent prohibitory injunction.

2. The plaint averments are as follows:-

The plaintiff residential property is situated approximately 100 meters west of the Panchayat road. Two acres of land in old survey No. 1502 of Meenadu village belonged to Sri. Thomas, S/o Kachocko of Thekkekoyipurathu Veedu was situated on the west side of the said public road. Another property having an extent of 35.75 in old survey No. 1492/3 belongs to Sri Vasudevan and his wife Radhamony of Vinu Vihar. There was an old pathway having a width of 3 feet situated on the northern extremity of two acres in survey No. 1502 and 35.75 in survey No. 1492/3 which extends towards south through the western extremity of 33.75 in survey No. 1492/3 and reaches the building and property of the plaintiff on the southern side of the 35.75 cents. The plaintiff was desirous of having a cartable way leading to his building. As such he has negotiated with Sri. Thomas, Vasudevan and Radhamony. Shri. Thomas has agreed to sell a strip of land on the southern side of the existing pathway from his two acres. Sri Radhamoni and Vasudevan have agreed to sell 6.375 cents of land on the south eastern side of their property. On 05.03.1991 the plaintiff has obtained sale deed No. 1008/91 of SRO, Chathannur where by plaint A and B schedule properties are purchased. The properties are situated northern side of A schedule property is lying at higher level and compound walls and mud bunds are erected on the southern boundary, prevent entry. On the southern side of A schedule property, a barbed wire fencing is erected. The plaintiff and his family shifted to Thiruvananthapuram four years back for the education of the plaintiff's daughter. Defendant's property and building is situated on the eastern side of the plaintiff's property and western side of the Shri. Thomas's property. Defendant made use of plaintiff's absence and began to walk through A and B schedule properties as an easy access to his building. The plaintiff requested, the plaintiff did not enter A and B schedule properties. As such the plaintiff erects two pillars on the eastern side of A schedule property. Thereafter the defendant obtained an injunction by this

court in OS 316/2012. The defendants have no right to enter into A and B schedule properties. On 31.12.2012 the defendant made an attempt to take vehicle through A schedule property. Hence the suit.

3. In pursuance of service of process the defendants entered appearance and thereafter they remained absent in person or through counsel. Hence they were set ex-parte.

4. Heard the counsel for the plaintiff.

5. The plaintiff filed affidavit. Ext. A1 and A6 marked on the side of the plaintiff.

6. The averments in the affidavit filed by the plaintiff stand unchallenged. The defendants failed to resist the case set up by the plaintiff. On a perusal of the unchallenged averments in the affidavit filed by the plaintiff and on hearing the counsel for the plaintiff, I have no hesitation to hold that, the plaintiff is entitled to get a decree as prayed for.

In the result, the suit is decreed as follows :-

- I. It is declared that the plaintiff has absolute title and exclusive possession over plaint A schedule property.
- II. The defendants and their henchman are restrained from trespassing into the plaint A and B schedule properties and causing any obstruction to plaintiff's peaceful enjoyment over the plaint schedule properties and from obstructing the plaintiff from erecting pillars and gate on the eastern boundary of A schedule property.
- III. In the nature and circumstances of the case, there is no order as to costs.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected by me and pronounced in the open court on this the 06th day of January, 2015.)

Sd/-
Sony A.S
Munsiff-Magistrate

APPENDIX:-**Exhibits marked on behalf of the plaintiff:-**

A1	-	Copy of sale deed No. 1008/91, dated 15-03-1991.
A2	-	Copy of Land Tax Receipt, dated 14-03-1996.
A3	-	Copy of Land Tax Receipt, dated 02-05-2011.
A4	-	Copy of Sale deed No. 3196, dated 03-07-1993.
A5	-	Copy of Land Tax Receipt.
A6	-	Copy of Location sketch.

Exhibits marked on behalf of the defendant:- NIL

Id/-

Munsiff Magistrate

//True Copy//

Munsiff Magistrate.

Typed by : Laisa S. L.

Compared by: