

IN THE COURT OF THE MUNSIFF-MAGISTRATE, PATTAMBI

Present:- Smt.Sherin.R.A., Munsiff-Magistrate

Wednesday, the 1st day of December, 2021
(10th Agrahayana,1943.S.E.)

ORIGINAL SUIT No.32/2008.

Between:-

Royal Education Foundation, : Plaintiff
Mannaraparambu, PO.Chalissery,
Ottapalam Taluk.
Rep. by its General Secretary K.P.Abdul Azeez.

And

1. Indira, Aged-40years, : Defendants
W/o.Pallangattil UnniMon,
Pallangattuchira, Kappur.PO.,
Kappoor Amsam Desam, Ottapalam Taluk.
2. Balan, Age-53years,
S/o. Kandalayil Velayi,
Pallangattuchira, Kappur.PO.,
Kappoor Amsam Desam, Ottapalam Taluk.
3. Rajan, Age-51years,
S/o.Kidangil Velayudhan,
Pallangattuchira, Kappur.PO.,
Kappoor Amsam Desam, Ottapalam Taluk.

This suit coming on this day for final hearing before me in the presence of Sri.A.A.Jamal & Sri.M.K.Moosakutty, Advocates for the Plaintiff and of Sri.V.P.Manojkumar, Advocate for the Defendants and this court delivered the following:

JUDGMENT

Suit is one for permanent prohibitory injunction.

2. Plaintiff averments in brief are as follows:- Plaintiff institution is a trust formed as per law and plaintiff schedule properties are in the name of the trust as per deed No. 1329/2006. The plaintiff schedule properties are situated nearby a dental college conducted by the plaintiff. Defendants are making unnecessary claims upon the plaintiff schedule properties. They had attempted to trespass into the plaintiff schedule properties. Hence the suit.

3. Defendant appeared through counsel and filed written statement denying the title of the plaintiff over plaintiff schedule property and well as the identity of the same.

4. The following issues arise for consideration:-

- 1) Whether the suit is maintainable ?
- 2) Whether the suit is bad for non-joinder of necessary parties ?
- 3) Whether the plaintiff schedule property is identified ?
- 4) Whether the plaintiff is entitled to get a prohibitory injunction as prayed for ?
- 5) Relief and costs ?

5. Thereafter the plaintiff was amended as per the order in I.A 578/18 dated 08/10/2018 and new relief for declaration of the right of the plaintiff over the plaintiff schedule property also sought for. Subsequent to the same the defendants filed additional written statement contending that the plaintiff has not been properly valued and the court fee paid is incorrect.

6. Thereupon after hearing both sides, my learned predecessor framed the following additional issue:-

- 1) Whether the suit is properly valued as per the amended plaintiff ?

7. After hearing both sides on the issue of the valuation of the plaintiff, my learned predecessor observed that as the plaintiff schedule property is not an agricultural land, the

market value of the plaint schedule properties is to be calculated as per Sec. 7(3)(a) of Kerala Court Fee and Suit Valuation Act. That apart, as the plaintiff has a case that the defendant denied the title of the plaintiff, the court fee is to be calculated on one half of the market value of the property and found that the suit is not properly valued and the court fee calculated is not correct. Accordingly, as per the order dated 24/01/2020, the plaintiff was directed to amend the plaint regarding the valuation and to pay proper court fee within 15 days of amendment. Thereafter in spite of repeated chances given to the plaintiff to amend the valuation of the property, no steps has been taken to amend the same. As per order 7 rule 11(b) the plaint shall be rejected where the relief claimed is undervalued, and the plaintiff, on being required by the court to so correct the valuation within a time to be fixed by the court, fails to do so. Accordingly, the plaint rejected under order 7 rule 11(b).

In the result, the plaint rejected under order 7 rule 11(b).

Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court this the 1st day of December, 2021.

Sd-
Munsiff.

Witness examined and exhibits marked on both sides : Nil

Sd-
Munsiff.

Copied by : Subrahmanian.T
Compared by : Brijimole