

IN THE COURT OF THE MUNSIFF OF CHITTUR
 Present: Sri. Antony Shelman.K.A., Munsiff, Chittur
 Saturday the 20th day of December, 2014
 29th day of Agrahayana 1936 S.E.

ORIGINAL SUIT NO. 226 of 2014

Krishnan, aged 65 years, S/o. Pazhanan, residing at
 Athimani, Vandithavalam village, Chittur taluk. : Plaintiff.

Vs.

1. Syamala, aged 36 yers, W/o. Chandran, residing at
 Athimani, Vandithavalam village, Chittur taluk.
2. Chandran, aged about 39 years, H/o.Syamala,
 residing at -do-. : Defendants.
3. Divya, D/o. Syamala, aged 20 years, residing at -do-.
4. Dhaniya, aged 18 years, D/o. -do-, residing at -do-.

This suit coming before me for final hearing on this day in the presence of Sri. M. Saseendran, advocate for the plaintiff and of Sri. V. Muurugadas, advocate for the defendants and the defendants name called absent set exparte and the court delivered the following :

J U D G M E N T

Suit for recovery of possession on the basis of title.

2. Plaintiff averments in brief are as follows :-

The plaintiff A- schedule property was obtained by the plaintiff as per the sale deed bearing No. 2143/2012 of S.R.O., Chittur and after the purchase of plaintiff schedule property, plaintiff is in actual possession and enjoyment of the same. The plaintiff is paying tax for the plaintiff schedule property. Except the plaintiff no one else has any right or interest over the plaintiff schedule property. The said property is shown as plaintiff A-schedule farm. Plaintiff A-schedule property the plaintiff B-schedule property was settled by the plaintiff to his son as per settlement deed No.3693/2012 of S.R.O.,Chittur. Some properties in the plaintiff C-schedule properties were given by the plaintiff to the his sister's daughter, who

is the 1st defendant, to reside temporarily in the year 2007. That property is mentioned as D-schedule in the plaint. Thereafter the defendants constructed a thatched shed in it and started residence with family. The 1st defendant and family are residing in the plaint D-schedule property as a licensee of plaintiff since plaint required the plaint D-schedule property. Plaintiff directly and through mediators asked to surrender the vacant possession of the same. But the defendants did not heed to the demand. The 1st and 2nd defendants have properties of their own at different places. Defendants are willfully neglecting to surrender the vacant possession. Defendants have no right to do so. The acts of the defendants are illegal and unlawful. Plaintiff is claiming Rs.100/- per month towards mesne profits from the date of filing of the suit. Praying for a direction to the defendants to surrender the plaint D-schedule property with mesne profit the above suit is filed.

3. On receipt of summons, defendants entered appearance, but failed to file written statement. Hence names of the defendants were called absent and set exparte. The plaintiff filed proof affidavit and Exts.A1 and A2 were marked. Heard the counsel for the plaintiff.

4. Point that arise for consideration is :-

“ Whether the above suit has to be decreed as prayed for ?”

5. The Point :- Plaintiff claim right over the plaint schedule property on the basis of his title to the property. To prove his ownership over the plaint schedule property, plaintiff had produced Ext.A1 document which is a joint release deed bearing No. 2143/1/2012 of S.R.O., Chittur. As per Ext.A1 plaintiff obtained an extent of 0.0910 Hectares of property comprised in resurvey 91/1 of Vandithavalam Village. Ext.A2 is the certified copy of settlement deed No.

3693/2012 of S.R.O.,Chittur executed by the plaintiff in favour of Dhanesh, his son property covered by Ext.A2 is settled out of the property covered by Ext.A1 document. As per Ext.A2 plaintiff settled an extent of 0.445 Hectears of property to his son. The property covered by Ext.A1 the plaint A-schedule property and the property covered by Ext.A2 is the plaint B-schedule property. The balance property after executing Ext.A2 is the plaint C-schedule property. Ext.A1 and A2 documents would show that plaintiff is the owner of the plaint C and D schedules property. Plaintiff claim that the defendants are residing in the plaint D schedule property as his licensees. It is stated in the proof affidavit of plaintiff that he demanded back the plaint D-schedule property from the defendants on 21-4-2014. It shows that he has canceled the permission shown to 1st defendant and family to reside in the plaint D-schedule property. The plaint averments and statement in the proof affidavit remains unchallenged. Hence by virtue of proof affidavit of plaintiff and Exts.A1 and A2 plaintiff has succeeded in proving the plaint claim. It is averred in the plaint that defendants have constructed a thatched house in the plaint D-schedule property. Since the plaintiff has canceled the permission given to defendants to reside in the plaint D-schedule property and the defendants have not surrendered the same to the plaintiff they are bound to pay compensation to plaintiff for the use and occupation of plaint D-schedule property. Therefore, I hold that defendants are liable to surrender the vacant possession of plaint B-schedule property to the plaintiff after demolishing the thatched shed in it and also liable to pay mesne profit at the rate of Rs.100/- per month from the date of suit till actual surrender or upto 3 years which ever is earlier.

In the result,suit is decreed as follows :-

- (1) That the defendants are hereby directed to surrender the vacant possession of the plaint schedule property to the plaintiff after demolishing the thatched shed therein within a period of two months from the date of the decree, and in case of failure plaintiff is entitled to get it recovered of the plaint schedule property through the process of this court.
- (2) The question of mesne profits claimed by the plaintiff as Rs.100/- per month from the date of filing of the suit till surrender of vacant possession is allowed.
- (3) Defendants are liable to pay the costs of the suit.

Dictated to the Confidential Assistant, transcribed by him, corrected and pronounced by me in open court on this the 20th day of December, 2014.

Munsiff.

Plaintiff's Witness: Nil.

Plaintiff's Exhibits:

A1 26-5-2012 Joint release deed bearing No. 2143/12 of SRO., Chittur.

A2 27-9-2012 Certified copy of Settlement deed executed by Krishnan in favour of Dhanesh.

Defendant's Witness and Exhibits : Nil.

Munsiff.

Typed by : AG Compared by:

Fair/copy/ Judgment in
OS. No. 226/2014
Dated: 20-12-2014.
