

IN THE COURT OF THE MUNSIFF OF CHITTUR

Present :- Sri. Raphael.E.V., Munsiff, Chittur
Tuesday the 27th day of June, 2023
6th day of Ashada, 1945 S.E.

ORIGINAL SUIT No:306/2021

- 1 Poonkodi, aged 58 years,
W/o.Balasubrahmanyam, : Plaintiffs
Attayampathy,
Muthalamada No.I Village,
Chittur Taluk
- 2 Senthilkumar, aged 40 years,
S/o.Balasubrahmanyam,
Attayampathy,
Muthalamada Village,
Chittur Taluk

Vs.

- 1 Ummarali, aged about 50 years,
S/o.Abdhul Majeed, : Defendants
Attayampathy, Govindapuram Post,
Muthalamada No.I Village, Chittur Taluk
- 2 Shamsudheen, aged about 45 years,
S/o.Abdhul Majeed,
Attayampathy, Govindapuram Post,
Muthalamada No.I Village, Chittur Taluk
- 3 Muhammedali, aged about 44 years,
S/o.Abdhul Majeed,
Attayampathy, Govindapuram Post,
Muthalamada No.I Village, Chittur Taluk
- 4 Yoosaf, aged about 60 years,
S/o.Saidu Muhammad Ravuthar,
Attayampathy, Muthalamada No.I Village,
Chittur Taluk

- 5 Muthan, aged about 50 years,
S/o.Aruchamy, : Defendants
Attayampathy, Govindapuram Post,
Muthalamada No.I Village, Chittur Taluk
- 6 Lakshmi, aged about 40 years,
W/o.Muthan, Attayampathy,
Govindapuram Post,
Muthalamada No.I Village,
Chittur Taluk
- 7 Lakshmi, aged about 70 years,
D/o.Thanka, Thoothippadam,
Peringottukavu,
Elavanchery Village, Chittur Taluk
Supplemental defendant No.8
- 8 Kathiresan, aged 35 years,
S/o.Vaniyan, Njavilan Thodu, Meenkara,
Muthalamada Village, Chittur Taluk
(Supplemental defendant No.8 impleaded as per order
in I.A.No.391/2022 dated 16-02-2022)

This suit coming on this day for hearing before me in the presence of Sri.P.Govindanunni and Smt.Resmy Unni, Advocates for the plaintiffs and of defendants called absent set exparte and the court delivered the following:-

J U D G M E N T

Suit for mandatory injunction as well as permanent prohibitory injunction.

2. The averments in the plaint in brief are as follows :- The plaint schedule property is obtained by the husband of the 1st plaintiff, and father of 2nd plaintiff namely Balasubramanian, the plaintiffs are in joint possession and enjoyment of the same. There were paying tax to the property. On 8-10-2021 the defendants came to the plaint schedule property and demanded vacant possession of the plaint schedule

property by claiming that the plaint schedule property is an excess land. The plaintiffs filed suit O.S.No.289/2021. The defendants came to know the filing of O.S.No.289/2021, and due to this enmity the defendants trespassed into the plaint schedule property and erected a tarpaulin sheet and constructed a shed. The plaintiff complained before the Kollengode Police. But the Police did not take any action as the petition is of civil in nature. The defendants have no right to do this. The act of the defendants are illegal. Hence the plaintiff prays to dismantle the shed erected in the plaint schedule property and also for permanent prohibitory injunction against trespass. Hence the suit.

3. Defendants filed written statement. When the case is called on the listed day for evidence, defendants were called absent and set exparte.

4. To prove the case of the plaintiff, plaintiff was examined as PW1 and he filed affidavit in lieu of chief-examination and produced Ext.A1 to A10 and Exts.C1, C1(a) and C2, C2(a). (Ext.A7 marked subject to proof). No contra evidence tendered and hence proof affidavit is accepted and marked as Exts.A1 to A10 and Exts.C1, C1(a) and C2, C2(a). (Ext.A7 marked subject to proof). The affidavit along with the documentary evidence proved the case of the plaintiff.

In the result,

- 1) It is hereby directed to the defendants to dismantle the shed erected in the plaint schedule property within one month from the date of this decree by way of mandatory

injunction. In default, the plaintiff is entitled to execute the same with due process of law at the expenses of the defendants.

- 2) The defendants and their men are hereby restrained by way of permanent prohibitory injunction from trespassing into the plaintiff schedule property or causing any obstruction to the plaintiffs.
- 3) The plaintiff is entitled to realise the costs of the suit from the defendants.

Dictated to the Confidential Assistant, transcribed by him, corrected and pronounced by me in open court, this the 27th day of June, 2023.

Munsiff.

Plaintiff's Witness Examined:

PW1 : B.Senthilkumar

Plaintiff's Exhibits:

A1	05-12-2003	:	Settlement deed No.2594/2003 of SRO Kollengode executed by Balasubramanyan in favour of Poonkodi and Senthilkumar
A2	05-05-1980	:	Purchase Certificate No.865/1978 issued by Land Tribunal Kollengode No.II in the name of Balasubrahmanyam
A3	22-04-1997	:	Mortgage Deed No.789/1997 of SRO Kollengode
A4	03-04-2001	:	Mortgage Deed No.779/2001 of SRO Kollengode
A5	26-11-1996	:	Possession Certificate issued by Village Officer, Muthalamada -I Village the name of Balasubramanian

- A6 09-06-2000 : Possession Certificate issued by Village Officer,
Muthalamada -I Village the name of N.Balasubramanian
- A7 12-04-2022 : Possession Certificate issued by Village Officer,
(Subject to proof) Muthalamada -I Village the name of Poonkodi and
Senthil Kumar
- A8 04-04-2022 : Basic tax receipt (Thandaper No.622/2, 1101/1) issued by
Village Officer, Muthalamada -I Village in the name of
Poonkodi and Senthilkumar
- A9 21-06-2023 : Certificate issued from Muthalamada Service Co-op.
Bank Ltd.,
- 10 31-10-2021 : Receipt (Kollengode Police station)

Defendants Witness and Exhibits : Nil

Court Witness Examined: Nil

Court Exhibits:

- C1 09-01-2023 : Commission report submitted by Advocate
Commissioner Darsan.V.K.
- C1(a) 09-01-2023 : Survey plan submitted by Advocate Commissioner
Darsan.V.K.
- C2 09-11-2021 : Commission report submitted by Advocate
Commissioner Darsan.V.K.
- C2(a) 09-11-2021 : Rough sketch submitted by Advocate Commissioner
Darsan.V.K.

Munsiff

Typed by : Sreela.K.S,

Compared by :Krishnakumari.M.M

Fair / Copy of Judgment in
O.S.No.306/2021
Dated : 27/06/2023
