

IN THE COURT OF THE MUNSIFF OF ALATHUR

Present:- Sri.Bigu.K.G., Munsiff, Alathur

Wednesday, 30th day of November, 2022
(9th day of Agrahayana, 1944 S.E)

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ORIGINAL SUIT No.394/2020

Krishnadas, aged 66 years, S/o Saraswathy Amma,
Agriculture, residing at Om Nivas, Panaympara,
Koottala Post, Kunisseri amsom desom, Alathur Taluk. } Plaintiff

Vs.

1. Ramesh, aged 40 years, S/o Narayanan, KSRTC Driver,
residing at Thachampotta Veedu, Panaympara, Koottala Post,
Kunisseri amsom desom, Alathur Taluk.
2. Narayanan, aged 76 years, F/o Ramesh, Swastham,
residing at Thachampotta Veedu, Panaympara, Koottala Post,
Kunisseri amsom desom, Alathur Taluk. } Defendants

This suit is coming on this day for final hearing before me in the presence of Sri.N.R.Venkitanarayanan and Smt.Sowmy Iyer, Advocates for the Plaintiff and defendants were called absent and set exparte, and this Court delivered the following.

J U D G M E N T

Suit for mandatory injunction and permanent prohibitory injunction.

2. Plaint averments in short are as follows :

The plaintiff is the owner of plaint 'A' schedule property by virtue of sale deed bearing No.2425/1981 of SRO, Alathur. The defendant's house and compound is situated on the norther side of plaint 'A' schedule property. The plaintiff has got another house and compound on the southern side of the plaint 'A' schedule property. Plaintiff submitted that a way is exists on the western side of defendant's property lying in the south – north direction and the said way is connecting the plaint 'A' schedule property and the Panchayat road. The above said is described as plaint 'B' schedule in the plaint. Plaintiff has got electricity connection through the posts erected on the northern portion of plaint 'A' schedule property and on the panchayat road. Plaintiff is using the way for more than 39 years continuously peaceably, as of right, as easement right, without any obstruction or objection either from the defendants or from anybody else till two months. But it was obstructed for the first time when the defendants put up fencing on the southern and northern end of the plaint 'B' schedule way. The plaintiff in order to avoid litigation requested to the defendant to remove the obstruction caused to the plaint 'B' schedule way. Though the defendant initially agreed for the removal of the obstruction, subsequently, failed to do as agreed. Later on 28.11.2020 the defendants put up barbed fencing by removing the thorn fencing. Hence the suit for mandatory injunction and for permanent prohibitory injunction.

3. Defendants were called absent and set ex-parte. The plaintiff was examined as PW1 and exhibits A1, C1 and C1(a) were marked. The plaintiff has filed chief affidavit in support of his averments in the plaint. Exhibit A1 is the janmam assignment deed No.2425/1981 of SRO, Alathur. On going through exhibit C1 commission report it is seen that the fencing is put up recently by the defendants. The evidence adduced by the plaintiff with the support of the above documents proved the case of the plaintiff. Hence I find that the discretionary relief sought in the plaint has to be allowed.

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

- i. Defendants and their men are directed by way of mandatory injunction to remove the fencing put up on the northern and southern end of the plaint 'B' schedule way within 15 days from the date of decree.
- ii. Defendants and their men are also restrained by way of permanent prohibitory injunction from causing any obstruction or disturbance to the user in using the plaint 'B' schedule way for the ingress and egress to the Panchayat road.
- iii. Defendants 1 and 2 shall pay costs of the suit.

Dictated to Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open court on this the 30th day of November, 2022.

Munsiff

A P P E N D I X:-

Plaintiff's Witness Examined:-

PW1 : P.Krishnadas

Plaintiff's Exhibits Marked:-

A1 27.05.1981 : Janmam Assignment deed bearing No.2425/1981 of SRO., Alathur executed by Gopalakrishnan in the name of Krishnadas.

Defendants witness and Exhibits Marked :- NIL

Court Witness Examined :- NIL

Court Witness and Exhibits Marked :- NIL

C1 16.12.2020 : Commission Report submitted by Sri.V.P.Aravindakshan, Advocate Commissioner.

C1(a) 16.10.2020 : Rough Sketch submitted by Sri.V.P.Aravindakshan, Advocate Commissioner.

Munsiff

Fair/Copy of Judgment

in O.S.394/2020

Dated : 30.11.2022