

**IN THE COURT OF THE SUB JUDGE, NEDUMANGAD.**

**Present : Smt. Rajasree. C.R, Civil Judge(Senior Division)**

On Wednesday 24<sup>th</sup> July 2024

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02<sup>nd</sup> Sravanam 1946

**I.A No.01/2020 in A.S 28/2020**

**Petitioner/Plaintiff**

Raghavan, aged 79 years, S/o Kothayan,  
Thadatharikathu Veedu, Ambedkar Grama,  
Panavoor, Vettampalli Muri, Panavoor Village,  
Nedumangad Taluk.

**(By Adv. Sri.K.P. Gopalakrishna Pillai)**

**Respondent / Defendant**

Panavoor Grama Panchayath represented by its  
Secretary

**(By Adv. Sri. V.A. Baburaj )**

This petition coming on for final hearing on 04/07/2024 and the court on 24/07/204 passed the following:

**ORDER**

This application is filed by the appellant seeking a prayer for temporary injunction restraining the respondent from forcefully evicting the petitioner from the plaint schedule property

2. **Petition averments, in brief, are stated as follows:-** Petitioner is the appellant in AS.28/2020. The petitioner obtained the plaint schedule property, which earlier vested with the Scheduled Caste Development Department, in the

year 1968 and constructed a building therein and is residing thereon with his family. Respondent Panchayat is not having any right over the plaint schedule property, as the same was vested with the Scheduled Caste Development Department earlier. On 20.03.2014, the respondent made an attempt to auction the coconut trees in the plaint schedule property cultivated by the petitioner. Due to timely intervention, the respondent was prevented from the attempt and this suit was filed against the respondent. The Trial Court dismissed the suit. Upon receiving knowledge regarding the dismissal of the suit, on 25.06.2020 the respondent and their men made attempts to evict the petitioner from the building in the plaint schedule property. Due to the timely intervention of the petitioner, they were prevented from their attempt. The respondent challenged that the petitioner will be evicted from the plaint schedule property. If the respondent succeeds in evicting the petitioner, it will cause irreparable injury and hardship. There is a prima facie case in favour of the petitioner. Balance of convenience is also in favour of the petitioner. Thus, this application is filed seeking injunction.

3. Respondent filed written objection contending that the injunction petition is not maintainable either in law or on facts and the petitioner has no prima facie case. The balance of convenience is not in favour of the petitioner and he no right to get an order of temporary injunction over the property as the same vests with the panchayath. Thus, this application is only to be dismissed with costs.

On the side of the petitioner, Ext.A1 to A4 were marked. No documents were marked on the side of the respondent.

**4. Upon hearing both parties and after considering the averments in the petition and the objection, the following points were formulated for consideration:-**

- 1) *Is there any prima facie case in favour of the petitioner?*
- 2) *Is the balance of convenience in this case in favour of the petitioner?*

- 3) *Whether the refusal to grant injunction would cause irreparable injury to the petitioner?*
- 4) *Whether the petitioner is entitled to get an order of temporary injunction prayed for?*
- 5) *What is the order as to costs?*

5. **Point No.1 to 4:-** To avoid repetition and for brevity, these points are considered together. The specific case put forth by the petitioner is that when the respondent panchayat tried to evict the petitioner forcefully on 20.03.2014, petitioner filed a suit against the respondent and that was dismissed. On 25.06.2020, after the dismissal of the suit, the respondent and henchmen attempted to evict the petitioner from the building situated in the plaint schedule property forcefully. On the contrary, the respondent contended that there is no prima facie case in favour of the petitioner as the property in the suit vests with the respondent panchayat.

6. I have gone through the affidavit filed by the petitioner and the documents produced. Petitioner averred that he has obtained the plaint schedule property in the year 1968 from the Scheduled Caste Development Department. He has constructed a building therein and is residing there along with his family. The affidavit filed would also go to show that after the dismissal of the suit, the respondent trying to forcefully evict the petitioner from the plaint schedule property. She has produced Ext.A1 which is letter issued by the Village Officer, Panavoor to the District Collector. From the contends of the same it is seen that the petitioner had made a complaint before the District Collector with respect to his forceful eviction of the property and report was called from the Village Officer concerned regarding the same. Ext.A3 is also a notice dated 27.01.2023 which shows that a notice was issued to petitioner stating that he encroached upon the property of the panchayath situated in the ninth ward in the premises of Ambedkar Community Hall. Ext.A3 and Ext.A4 are the notices issued to the petitioner herein. Ext.A4 notice was issued by the Secretary of Panavoor Grama Panchayat

on 29.03.2023 asking the petitioner to demolish the illegal construction of toilet in the property of Ambedkar Community Hall should be demolished. Ext.A3 and A4 speaks about illegal construction done in the Ambedkar community hall premises. Whether it has got any connection with the plaint schedule property is not evident and that could not be gathered from mere production of Ext.A3 and A4.

7. However, on considering the affidavit filed by the petitioner, it is evident that the petitioner is in possession of the plaint schedule property and the respondent is trying to evict the petitioner forcefully. The respondent has not specifically challenged this fact in the objection. Going through the affidavit filed it is evident that the petitioner claims right over the building that is situated in the plaint schedule property. The affidavit filed discloses the existence of a prima facie case in favour of the petitioner. In the suit also the petitioner has averred that the respondent was trying to auction the tress standing in the property possessed by the petitioner. The respondent has not taken a contention that the property is now in the possession of the respondent and not with the petitioner. As in the affidavit the petitioner states that he is in possession and enjoyment of the building situated in the plaint schedule property along with his family and as that is not specifically denied, I am of the view that the petitioner has established a prima facie case in his favour.

8. No person can be evicted from a building or property forcefully, even if he has no right over the same, except according to the procedure established by law . As the petitioner is residing in the building situated in the plaint schedule property along with his family, it can only be said that dispossessing him forcefully will cause more hardship to him than to the respondent and so, the balance of convenience is more in favour of the petitioner. If the petitioner is forcefully evicted from the property along with his family, it will definitely cause irreparable injury to the petitioner that cannot be compensated in terms of money. Having considered the affidavit filed and the documents on record, I am of the view that

the petitioner is entitled to get an order of injunction prayed for. Thus, these points are found in favour of the petitioner.

9. **Point No.5:-** Parties are directed to bear their respective costs.

**In the result, this petition is allowed as follows:-**

- a) The respondent or their men or agents are temporarily restrained from evicting the petitioner or his family forcefully from the building situated in plaint schedule property, otherwise than under due process of law, or from disturbing the petitioner's and his families peaceful possession and enjoyment over the building situated in the plaint schedule property until further order.

*(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court on this the 24<sup>th</sup> day of July, 2024).*

*Rajasree.C.R,*

*Civil Judge, Senior Division*

APPENDIX

Exhibits Marked on the side of Petitioner:-

A1	--	Copy of letter issued by Village Officer, Panavoor
A2	05/11/2013	Report
A3	27/01/2023	Notice
A4	29/03/2023	Notice

Exhibits Marked on the side of Respondent :-

NIL

Exhibits marked on the side of Court :-

NIL

Witness examined on the side of Petitioner

NIL

Witness examined on the side of Respondent

Nil

Witness examined on the side of Court :        NIL

CIVIL JUDGE,  
(SENIOR DIVISION)

Typed by :BR

Compd by :

**Copy of  
Order in IA.1/2020,  
in AS. 28/2020  
Dated: 24.07.2024.**