

IN THE COURT OF THE SUB JUDGE, NEDUMANGAD

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

On Thursday 12th March 2026

21st Phalguna 1947

A.S 28/2020

(On Appeal against the Decree and Judgment in O.S 284/2014 dated 20/02/2020 of Additional Munsiff's Court, Nedumangad)

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

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

Respondent/Defendant Panavoor Grama Panchayat represented by its Secretary

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

These Appeal Suit coming on for final hearing on 12/03/2026 and the court on the same day delivered the following :

J U D G M E N T

This appeal is preferred by the plaintiff against the judgment and decree in OS 284/2014 dated 20.02.2020 of the Court of Additional Munsiff, Nedumangad. The

parties will be referred to in as 'the plaintiff' and 'the defendant', as they are shown in the suit.

2. The suit is for permanent prohibitory injunction.

3. **Plaint averments, in brief, are stated as follows:** The plaintiff belongs to scheduled caste. Seven acres of land including the plaint schedule property vested with the Scheduled Caste Development Department. Out of that property, the plaint schedule property was obtained by the plaintiff in the year 1967. The plaintiff has constructed a building therein and is residing in the building along with his family. The defendant has no right over the plaint schedule property, which was vested with the Scheduled Caste Development Department. On 20.03.2014, the defendant made an attempt to auction the coconut trees standing in the plaint schedule property, cultivated by the plaintiff. Due to the timely intervention of the plaintiff and others, the defendant failed in their attempt. The defendant had auctioned the coconut trees standing in the plaint schedule properties in the year 2013-2014. Thereafter, in the year 2014-2015, the defendant panchayath again issued notice for auctioning the usufructs from the plaint schedule property. This act committed by the defendant is illegal. The defendant has no right to take usufructs from the property. Thus, this suit is instituted seeking a prayer for permanent prohibitory injunction.

4. Defendants filed written statement contending as follows:-. The plaint schedule description is not correct. The plaintiff is not having any right over the plaint schedule property. The plaint schedule property is not identifiable. The

defendant is maintaining and controlling the property that situates in Panavoor Ambedkar Gramam colony. All the improvements in the colony are being done by the panchayath using its funds. The right over the property vests with the defendant panchayath. The cause of action alleged is absolutely false. So, this suit is only to be dismissed with costs.

5. Based on the rival contentions, the Trial Court has formulated the following issues for consideration:-

1. Whether the suit is bad for want of notice under section 249?
2. Whether the suit is bad for non-joinder of necessary parties?
3. Whether the plaintiff has title and possession over the plaint schedule property?
4. Whether the plaintiff is entitled to get a decree for permanent prohibitory injunction as prayed for?
5. Reliefs and costs

6. After considering the evidence of the parties and the pleadings on record, the learned Civil Judge has dismissed the suit.

7. On the side of the plaintiff, the plaintiff was examined PW1 and Exts.A1 to Ext. A5 were marked. On the side of the defendant, no oral or documentary evidence were adduced. Exts.C1 and C1(a) were also marked for the consideration of the suit.

8. Aggrieved by the judgment and decree passed by the learned Civil Judge, this appeal is preferred on the following grounds:-The judgment and decree of the Trial Court are against facts. The Trial Court failed to understand the pleadings and

the real dispute between the parties and the same was not addressed. The Trial Court ought to have found that the appellant is in possession of the plaint schedule property and is residing in the building situated therein. The deposition of the appellant, the documents produced and the matters reported in Ext.C1 report have not been considered by the Trial Court. The Trial Court has not considered the fact that the coconut trees standing in the plaint schedule property were cultivated by the plaintiff. The evidence of the plaintiff was not considered for the issue no.3 to 5. The defendant has not adduced any evidence. So, this appeal is preferred to set aside the judgment and decree of the Trial Court and to decree the suit or to remand the matter for fresh consideration.

9. Upon hearing both sides and after considering the grounds stated in the appeal memorandum, the following points were formulated for consideration:-

1. Is the plaintiff is in possession of the plaint schedule property?
2. Is the plaintiff entitled to get a decree for permanent prohibitory injunction prayed for?
3. Whether the judgment and decree passed by the trial Court requires any interference? and if so, on what grounds?
4. What is the order as to costs in appeal?

10. **Point nos. 1 to 3:** To avoid repetition and for brevity, these points are considered together. The specific case put forth by the plaintiffs is that he is in possession of the plaint schedule property that originally belonged to the Scheduled Caste Development Department. Since 1967, the plaintiff is in possession of the

plaint schedule property. According to the plaintiff, the defendant has attempted to auction the usufructs from the coconut trees standing in the plaintiff schedule property during the year 2014-2015, resulting in the institution of the suit. It is also specifically pleaded that in the year 2013-2014 the defendant had auctioned the coconut trees standing in the plaintiff schedule property. On the contrary, the defendant specifically contended that the defendant panchayath is managing and controlling the properties that situate in Panavoor Ambedkar Gramam colony and the cause of action alleged is absolutely false.

11. In a suit for injunction simplicitor, the plaintiff is bound to prove that he is in possession of the plaintiff schedule property with respect to which he is claiming relief. On perusal of the plaintiff schedule property it is seen that the plaintiff is claiming right over the property measuring an extent of 10 cents that situate in block no.19 re-survey 166/7 of Panavoor village. The property originally belonged Scheduled Caste Development Department. The boundary description of the property would go to show that there is road on the southern side of the property and community centre lies on the eastern side of the property. On the west of the plaintiff schedule property, there exists a pathway and the property of Stefenson is on the north of the plaintiff schedule property. The defendant has disputed the description of the property. In the plaintiff averments it is specifically pleaded that 10 cents of property and the building therein is in the possession of the plaintiff since 1967 and he has effected improvements and is taking usufructs from the property.

12. PW1 mounted the box and deposed in tune with the plaint averments. At the time of cross examination, it has come in evidence that the building that is situated in the plaint schedule property is not numbered. It has also come in evidence that there are five coconut trees standing in the property aged more than 50 years. PW1 had admitted the fact that for the year 2013-2014 the panchayath had auctioned the usufructs from the coconut trees. It has also come in evidence that one room in the building that is situated in the plaint schedule property was demolished by the panchayath and they had constructed a community hall in the demolished portion.

13. The sole evidence on record is the testimony of PW1. PW1 has produced Ext.A1 to A5 documents. Ext.A1 to A3 are the ration cards of the year 1991, 2002 and 2014. Ext.A4 and Ext.A5 are community certificates issued from the Taluk office. In Ext.A1 ration card, the house number is not specifically mentioned. On perusal of Ext.A2 ration card it is seen that the house number is mentioned as 445 in ward no.8 of Panavoor Grama panchayath. At this juncture, let me consider Ext.C1 report filed by the Advocate Commissioner. The Commissioner has reported that she has given notice to both parties and along with the surveyor she has visited the property. She has also produced Ext.C1(a) plan prepared by the surveyor along with the report. She has reported that the property which is in the possession of the plaintiff is situated near the community centre and has not noted the house number of the building. It is not evident that the house situated in the plaint schedule property is a house mentioned in Ext.A2 ration card. So, no reliance could be placed on Ext. A1

to Ext. A3 ration cards to show that the plaintiff is in occupation of the building situated in the plaint schedule property.

14. The sole question to be considered is whether the plaintiff has proved his possession over the plaint schedule property. The counsel for the plaintiff submitted that there is no specific denial challenging possession and it amounts to admission . Going through the written statement it is seen that the possession of the plaintiff is no admitted and there is specific denial. So, I find no merit in the argument advanced. It is specifically averred that the plaintiff is having right over 10 cents of property. The schedule does not disclose which is the 10 cents of property in the possession of the plaintiff. The narration of the property in the schedule would clearly show that the description of the plaint schedule property is vague . The description of the plaint schedule property mentioned in the plaint does not tally with the measurements shown in Ext.C1(a) plan. As per Ext.C1(a) plan the plaint schedule property is only having an extent of 7 cents and 562 sq links. It was argued that this court can grant a lesser relief than what is claimed. It is true that the court can grant lesser relief but the extent of the property alleged to have been in the possession of the plaintiff is about 10 cents. The property identified by the Advocate Commissioner is only measuring 7.562 cents. The testimony of PW1 would clearly go to show that a room of the building situated in the plaint schedule property was demolished by the defendant and community centre was constructed in the demolished portion. This evidence of PW1 itself would go to show that the plaintiff is not in exclusive possession of the entire plaint schedule property. Which is the document by which the plaintiff is claiming

right over the property is also not averred or proved by the plaintiff. The plaintiff has simply averred that he has obtained the property measuring 10 cents from Schedule Caste Development Department. No scrap of paper has been produced to show that he obtained the property from the Scheduled Caste Development Department. PW1 is also not aware of the entire extent of the property possessed by him. It is quite interesting to note that the Advocate Commissioner has located the plaintiff schedule property. Based on which document the Commissioner has located the property is also not evident. This is a case in which the plaintiff has specifically pleaded regarding possession over 10 cents of land. As it is not evident how the Advocate Commissioner has located the property measuring 7.562 cents, I am of the considered view that this court cannot limit the extent of the property to that what is shown by the advocate commissioner in Ext. C1 (a) plan. A person who claims possession over the property should specifically plead as to how he came in possession of the property. There is only a vague pleadings in the plaint that since 1967 the plaintiff is possessing the property. What is the nature of the possession claimed by the plaintiff is not specifically pleaded. As the pleadings in the plaint itself is vague and as the extent of the property identified by the Advocate Commissioner is not tallying with the extent of the plaintiff schedule property averred in the plaint and narrated in the plaintiff schedule, I am of the view that this is not a fit case to pass a decree for permanent prohibitory injunction in favour of the plaintiff.

15. The main dispute in this case is that the defendant is trying to take the usufructs from the coconut trees standing in the plaintiff schedule property. However,

the Advocate Commissioner who visited the property has not reported about the coconut trees standing in the plaint schedule property. This itself would go to show that the testimony of PW1 regarding the existence of coconut trees is not corroborated by the matters reported by the Advocate Commissioner. Moreover, the plaintiff has no case that he has planted the coconut trees standing in the plaint schedule property. So it can only be said that there is no convincing evidence to show the existence of trees standing in the plaint schedule property.

16. The learned Civil Judge had formulated an issue regarding the title of the plaintiff and possession. In a suit for injunction, there is no necessity to frame an issue regarding the title of the plaintiff. Going through the plaint averments, it can be said that there is no specific pleadings as to how the plaintiff came in possession of the plaint schedule property. The plaintiff ought to have specifically pleaded regarding how he came in possession of the plaint schedule property. In the absence of the specific pleadings it can only be said that there is no convincing evidence on record that would go to show that the plaintiff is in possession of the plaint schedule property. In that case, the plaintiff is not entitled to get a decree for permanent prohibitory injunction. In the light of these discussions, I am of the considered view that though the learned Civil Judge has formulated a wrong issue regarding title of the plaintiff with respect to the plaint schedule property, the finding of the Trial Court with respect to the issue regarding the possession of the plaintiff is correct it does not require any interference from this court. Thus, these points are found against the plaintiff/appellant.

17. **Point no 4:** Considering the nature of the relief claimed, I am of the view that the parties could be directed to bear their respective costs in appeal.

In the result, this appeal is dismissed. There is no order as to costs.

(Prepared through Adalath AI, corrected and pronounced by me in open court on this the 12th day of March, 2026).

Rajasree.C.R,
Civil Judge(Senior Division),

APPENDIX: NIL

Civil Judge, Senior Division

Typed by: BR

Compd by: RPN