

In the Court of the Additional Munsiff, Nedumangad
Present:- Smt. Aswathy.N, LLM, Additional Munsiff
Wednesday 25th January 2017/5th Magha 1938

O.S. No. 854/ 2012

Plaintiffs:

1. Kanyamkode Sree Chamundeswari Devi Temple,
represented by Sri . Sundaranassary.
2. Sundaranassary, aged 70 years,
S/o Kesavanassary,
Thadatharikathu Veedu, Chellamkode,
Nedumangad Village .
3. Maniyan Assari, aged 62 years,
S/o Kesavanassari,
Thadatharikathu Veedu,
Chellamkode muri, Nedumangad Village
4. Sasi, aged 60 years, S/o kesavanassari,
residing at -do-do-
5. Murukan, aged 41 years,
S/o Velappanassari, Karthika,
Chellamkode muri, Nedumangad Village.
6. Sudheesh Kumar, aged 26 years ,
S/o Krishnanassari, M.R.S. Nivas,
Chellamkode muri, Nedumangad village

By Adv. S. Akhil

Defendats:

1. Asokan , aged 44 years,
S/o Thanakappanassari,
Thekkumkara Puthen Veedu,
Chellamkode muri, Nedumangad Village
2. Madhu, aged 48 years,
S/o Thankappanassari,
Thekkumkara puthen veedu,
Chellamkode muri, Nedumangad Village
3. Vasantha , aged 60 years,
D/o Pankajakshi,
Thekkumkara puthen veedu,
Chellamkode,
Now residing at Vishnu Bhavan,
Chellamkodu, Nedumangad village
4. Girija, aged 58 years, D/o Pankajakshi,
Thekkumkara puthen veedu, residing at -do-do-

By Adv. V.S. Biju

This suit having been finally heard on 11.01.17 and the court on 25.01.2017 delivered the following.

J U D G M E N T

This is a suit for declaration of title , recovery of possession and for injunction.

2. Plaintiff averments are as follows:- Plaintiff schedule property belongs to the first plaintiff by virtue of Settlement deed No.2930/55 executed by the father of plaintiffs 2 to 4 in 1955. By virtue of this settlement deed Kesavan was entrusted to possess and take usufructs from the plaintiff schedule property and to conduct the activities in the temple. After the death of Kesavan as per the terms in the settlement deed plaintiff No.2 with the help of other plaintiffs was conducting the activities in the temple and managing the properties. From the time of defendants predecessors they were trying to appropriate the temple properties. For the said purpose defendants mother had instituted a suit before this court against plaintiffs 3 and 4 as O.S.No. 688/1997. The said suit was dismissed. The defendants are trying to cut and remove the trees standing in the plaintiff schedule property. They have cut Mahagony standing in the plaintiff schedule property on 26.10.2012. Due to the intervention of the plaintiffs the logs of the tree is still lying in the plaintiff schedule property. Defendants have executed forged documents with respect to properties of the temple. These documents will not affect the plaintiff schedule property or the right

of the plaintiffs over the plaint schedule property. This suit is filed to stop the consistent difficulties created by the defendants against the plaintiff. The plaintiffs apprehends that defendants will again trespass into the plaint schedule property, cut and remove the trees and take the usufructs from the properties. The defendants have threatened the plaintiff that they will obstruct the activities in the temple. Hence plaintiff has sought for the reliefs in the suit.

3. Defendants 1 to 4 filed written statement. When the case was listed for trial defendants did not turn up and hence they were set exparte.

4. Heard the counsel for plaintiffs.

5. Plaintiff No.6 was examined as PW1 and Exts.A1 to A5, C1, C1(a), C2 and C2(a) were marked.

6. Plaintiffs have filed proof affidavit in lieu of examination in chief and the assertions therein stands unchallenged. Ext.A1 is the settlement deed No. 2930/55. By virtue of it A-schedule in the settlement deed belongs to the first plaintiff. The 3rd plaintiff is entitled to possess the plaint schedule property and take usufructs and conduct the activities in the temple. After the death of 3rd plaintiff, plaintiff No.2 is carrying out the said activities. Ext.A5 is the tax receipt with respect to plaint schedule property showing

remittance of tax.

7. Plaintiffs right for getting a decree for declaration and possession of plaint schedule property and apprehension of the plaintiff that the defendants and his henchmen will trespass into the plaint schedule property and commit waste thereon is proved from the unchallenged testimony of PW1. In such circumstances the plaintiffs are entitled for a decree as sought for by them.

In the result, suit is decreed as follows:

(1) It is declared that first plaintiff has absolute right and possession of the plaint A-schedule property.

(2) Defendant are restrained from trespassing into the plaint schedule property, from cutting and removing the trees, taking usufructs and from obstructing the activities in the temple.

(3) Plaintiffs are entitled to realize the costs of the proceedings from defendants.

Dictated to the Confidential Assistant, transcribed and typed by her , corrected and pronounced by me in open court this the 25th day of January 2017

ASWATHY. N
ADDITIONAL MUNSIF

Appendix :
Exhibits for the Plaintiffs

A1	30.10.1955	Settlement deed
A2	30.01.2002	Copy of Judgment in OS. 688/1997
A3	21.03. 2001	Copy of Decree in OS. 688/1997
A4:	29.09.1977	Attested copy of Resurvey plan
A5	05.05.2004	Tax receipt No. 1023856

Exhibits for the defendant : Nil

Court Exhibits :

C1:	13.03.2013	: Commission report prepared by Commissioner Advocate Sajitha filed 07.06.13
C1(a)	13.03.13	Rough plan prepared by Commissioner Advocate Sajitha
C2	27.05.15	Commission report prepared by Commissioner Advocate Sajitha filed on 05.11.2015
C2(a)	03.02.2015	Re-Survey plan prepared by Taluk Surveyor R. Muraleedharan Nair filed on 5.11.2015.

Witness for the plaintiff :

PW1 : 06.1.17 : Sudheesh Kumar

Witness for the Defendant : Nil

//True copy//

Typed by.Vs

Compared by

Additional Munsiff.

JUDGMENT IN OS.854/2012

Dated: 25.01.2017.