

In the Court of the Additional Munsiff, Nedumangad
Present:- Smt.Sherin K. George, B.A.L,LL.B,MBA Additional Munsiff.

Saturday 16 th February 2019/27th Magha 1940

OS.NO.924/2016.

Plaintiff:-

Abdul Majeed, aged 74 years,
S/o Aliyarukunju, Zumzum Building,
Kolliyode, Vettampally muri,
Panavoor village

(By Adv. Sri.S. Akhil)

Defendants:-

1. Sobhana, aged 66 years,
D/o Saraswathy ,
Kottara mekkumkara puthen veedu,
Kalliyode, Vettampally muri, Panavoor village.
2. Santha, aged 64 years, D/o Saraswathy,
residing at -do-do-
3. Vilasini, aged 62 years, d/o Saraswathy, residing
at -do-
4. Babu, aged 60 years, S/o Ponnappan,

residing at do-

5. Mohannan, aged 58 years, S/o Ponnappan,
residing at -do-
6. Jayakumari, aged 56 years, D/o Saraswathy,
residing at -do-
7. Krishnankutty, aged 54 years, S/o Ponnappan,
residing at -do-
8. Sasidharan, aged 52 years, S/o Ponnappan,
residing at -do-
9. Saji, aged 50 years, S/o Ponnappan, residing at
-do-
10. Jalaja, aged 48 years. W/o Rajendran,
residing at -do-
11. Sanooj, aged 35 years, S/o Jalaja, residing
at -do-
12. Soumya, aged 35 years, D/o Jalaja,
residing at -do-
13. Pushkaran, aged 48 years, H/o Sarala,
residing at -do-
14. Rahul, aged 26 years, S/o Pushkaran,
residing at -do-
15. Vishnu, aged 22 years, S/o Pushkaran,
residing at -do-

Exparte

This suit having been finally heard on 29..01.2019 and the court on 16..02..2019 delivered the following

JUDGMENT

Suit is one for mandatory injunction and permanent prohibitory injunction.

2. **Plaint averments, in briefs, are as follows:** The

first plaintiff purchased the plaint schedule property by virtue of sale deed number 2973/ 1978. The southern side of the plaint A schedule lies a portion of Puthuval road in survey No.2479 and northern side lies the putheval property 2481/1. The defendant is not having any right upon the plaint A schedule or the puthuval property Inorder to enjoy the plaint A schedule it highly necessary that the puthuval property in survey 2481/1 which was part and parcel of plaint A schedule is necessary. The property lies between the A schedule and the southern side of the road absolutely belonged to the plaintiff . The father of the defendant were the rentee of the building situated in the plaint A schedule and after expiry of the rent agreement, a suit

was filed by the plaintiff for the eviction. During the tenure of the suit the father of the defendants try to extent the building with the puthuval property. Thereafter as per order in EP.157/2007 the property which was encroached by the defendant was evicted and delivery was effected After the death of said Ponnayyan defendant has abandoned the said puthuval property and they have no right upon the said property. The puthuval property belonged to the plaintiff is described as plaint B schedule. During the tenure of the rent agreement the said Ponnayyan has renovated the building by incorporating the puthuval property. Defendant are recently trying to renovate the building by grabbing the plaint A schedule property. For the said purpose, the defendants try to demolish the western boundary of the plaint A schedule. The defendants is not having any right up on the plaint A schedule or the puthuval property. Hence the suit is filed.

3. Though the summons was served on the defendant, D1 to D3 entered appearance and they he did not file written statement and was set exparte. Others were served with summons served but did not entered appearance set exparte.

4. On the side of plaintiff, plaintiff was examined as PW1 and Exts. A1 to A6 were marked. The commission report is marked as Ext. C1 and C1(a) .

5. Heard.

6. **Now the only point that arise for consideration is:**

1. Whether the plaintiff is entitled for the relief sought for?

7. **The Point:**

Evidence of the plaintiffs coupled with Ext. A1 to A6 and C1,C1(a) series would prove the plaint claim. Ext. A1 to A6 would prove that plaintiffs are the absolute owner and in exclusive possession of the plaint schedule property. The evidence of the plaintiff remains unchallenged. The evidence before court would prove the apprehension of the plaintiffs regarding trespass into the plaint schedule property by the defendant is well founded. Plaintiff is entitled to get a relief. Hence the point is found accordingly.

7. In view of the finding on the above point, the suit is to be decreed.

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

1. Defendants are directed to demolish the building constructed in the plaint B schedule property within 30 days from today and in case of failure to comply with the mandate, plaintiff is at liberty to execute the mandate through the process of court, in that event, defendant shall be liable for all costs incurred thereto.
2. Defendants and his men under them are restrained by a decree of permanent prohibitory injunction from trespassing into plaint A schedule and from and not to commit any waste in plaint A schedule property or its boundaries
3. Plaintiff is entitled to realise the costs of the suit from the defendant.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court this the 16th day of February, 2019.

SHERIN K. GEORGE,
Additional Munsiff,

Appendix :

- A1 23.08.1978 Certified copy of sale deed No. 2971/78
- A2 08.11.1995 Certified copy of Judgment in
AS. 16/1989
- A3 27.08.08 Certified copy of Delivery List
- A4 Certified copy of plan
- A5 1.09.2016 Tax receipt No. 1037952 ,Anad village
- A6 23.08.1978 Sale deed No. 2973/1978

Exhibits for defendants : Nil

court Exhibits :

- C1 9.01.2017 Commission report filed by
Advt. Smt. Sajna.V
- C1(a) 09.1.17 Rough plan attached to C1 (plan)

Witness for plaintiff

Pw1 19.01.19 A. Abdul Majeed

Witness for defendant : Nil

//True copy//

Typed by.Vs

Compared by

Additional Munsiff.

JUDGMENT

O.S. No. 924/2016.

Dated. 16/02/2016