

IN THE COURT OF THE MUNSIFF ATTINGAL.
PRESENT:SMT. SOORYA S. SUKUMARAN, MUNSIFF.
SATURDAY 25th SEPTEMBER 2021 / 3rd ASWINAM 1943

ORDER IN IA 01/2021 IN OS No. 575/2008

Petitioners/Plaintiffs:

- 1 Radha , D/o Karthyayani, Mylakunnil veedu, Near Govt. H.S. Kilimanoor, Pazhayakunnummel village
- 2 Sudhambika, D/o Radha residing at do.....do.....
- 3 Sheela , D/o Radha, residing at do.....do.....
- 4 Sheeja, D/o Radha, residing at do.....do.....
By Adv. K.S. Vinod.

Counter petitioners:-

- 1 Rugmini, W/o Sudhakaran, Sudhakarabhavan, Moothala, Pallikkal village,
- 2 Suresh Babu, S/o Sivasankaran, Mylakunnilveedu, near Government. H.S. Kilimanoor, Pazhayakunnummel village.
- 3 Sathyabhama, aged 80 years, Varuthattil veedu, Near Madan Nada, Kurakkada, Kizhuvilam village (Proposed Additional 3rd defendant).
- 4 Prasad S/o Sathyabhama, aged 45 years, residing of do.....do.....
(Proposed addl. 4th defendant)
(By Adv. J.S. Radhika).

This petition coming on for hearing on 25/09/2021 and the court on the same day passed the following.

ORDER

This is a petition filed by the plaintiffs under O. 1 Rule 10 CPC to implead the eastern property owners of the plaint A and B schedule properties as additional defendants 3 and 4. It is averred in the petition that on the instigation of 1st defendant, the proposed parties constructed a compound wall by encroaching the eastern side of the plaint A and B schedule properties on 27.01.2020

2. The 1st defendant filed objection contenting that the presence of proposed parties is not necessary for the dismissal of the suit and he also denied

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the allegation of encroachment by the proposed parties and prayed for the dismissal of the petition.

3. Notice was served to the proposed parties. They appeared and filed objection denying the allegation of encroachment over the plaint A and B schedule properties. They further contended that there is a compound wall of having more than 20 years of age which separates the property of plaintiff and these proposed defendants. They prayed for the dismissal of the petition.

4. Heard both sides.

5. The plaint A and B schedule properties owned and possessed by the plaintiffs and second defendant. The suit is filed against the 1st defendant on the allegation that on 18.08.2008 he attempted to demolish the western boundary of the plaint schedule property and plant survey stones within A schedule property. The reliefs sought in the plaint is for declaration of title and possession of plaintiffs and 2nd defendant over the plaint B schedule property and for consequential injunction over the plaint A and B schedule properties. The property of the 1st defendant lies on the south-western side of the plaint A schedule property. Now this petition is filed to implead the eastern the property owners alleging that on 27.01.2020 they constructed a boundary wall by encroaching into the plaint A schedule property.

6. It is apparent that the cause of action alleged against the proposed parties and the cause of action alleged against the 1st defendant are entirely

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different and distinct. If these different causes of action are joined against different defendants, definitely, there would be a mis joinder of defendants and causes of action. So the proper remedy is to file a separate suit.

In the result, the petition is dismissed with costs.

Dictated to the C.A, transcribed and typed by her, corrected and pronounced by me in Open Court on this the 25th day of September, 2021.

Sd/-
SOORYA S SUKUMARAN
MUNSIFF

Appendix:

Nil

Id/-
MUNSIFF

Typed by: Sofiya .Beevi
Compared by:

MUNSIFF