

IN THE COURT OF THE MUNSIF, ATTINGAL
PRESENT: SRI. RAJEEV. V, B.Sc, LL.B., MUNSIF
WEDNESDAY 21st NOVEMBER, 2018/30th KARTHIKA, 1940

JUDGMENT IN O.S. No. 319/2011

Plaintiffs:

1. Ravi, S/o Sreedharan, 60 years, Amrutha Bhavan, Near Govt. Hospital, Chirayinkeezhu, Sarkara Village
2. Nalini. K.S, W/o Ravi, 53 years, do.....do.....
By Adv: A. Babu

Defendants:

1. Sadasivan, S/o Sekharan, 66 years, Poovanvila Veedu, Near Govt. Hospital, Chirayinkeezhu, Sarkara Village
2. Sumesh, S/o Sadasivan, 23 years, do.....do.....
Exparte

This suit having been heard by the court on 21.11.2018, and the court on the same day delivered the following:

JUDGMENT

Suit for permanent prohibitory injunction.

2. Plaint averments in brief is as follows:

Plaintiffs have obtained plaint schedule property by virtue of sale deed No.2080/1990. They have been enjoying the plaint schedule property after effecting mutation for their favour. Plaint schedule property is having well defined boundaries. There are compound walls at the eastern side of the plaint schedule property and at one half portion at the northern boundary of the plaint schedule property. The remaining northern boundary is the raised bank of the house. The north-west corner of the plaint schedule property situates adjacent to the raised bank. There is a Panchayath road at the northern side of the plaint schedule property which extends up to Chirayinkil - Attingal road. The said

Panchayath road terminates at the northern side of plaintiff schedule property and proceeds towards west up to the property of the defendants. Defendants have attempted several times to widen the said pathway by demolishing the raised bank of the house of the plaintiff. The son of the plaintiff's was admitted in Medical College Hospital from 27.06.2011 to 05.07.2011 and the plaintiffs were with their son during the said period. Utilizing the absence of the plaintiffs in the plaintiff schedule property defendants have encroached upon the plaintiff schedule property and have removed the old survey stones. Again, on 12.07.2011 at 1 AM defendants and their henchmen have again attempted to widen the pathway by demolishing the raised bank. But that attempt was thwarted by the timely intervention of the plaintiff and the local people. Defendants have threatened the plaintiff and uttered obscene words on them. Defendants have also threatened that they would destroy the portion of their house, would trespass upon the plaintiff schedule property and construct a compound wall annexing a portion of the plaintiff schedule property. Hence, the suit is filed praying for a permanent prohibitory injunction restraining the defendants from widening the pathway by demolishing the raised bank, from making any constructions encroaching upon the plaintiff schedule property and the pathway and from causing any obstructions to the plaintiffs construct a compound wall at the western side of the plaintiff schedule property.

3. Though the plaintiff has also prayed for a decree of mandatory injunction, during the time of hearing, counsel for the plaintiff has endorsed that the said relief

is not pressed.

4. From the side of the plaintiff, PW1 and PW2 were examined and Ext.A1 to A5, C1, C1(a), C2 and C2(a) were marked. Ext.A1 is the certified copy of deed No.2080/1996 and Ext.A2 is the tax receipt dated 26.04.2011. Ext.A3 is the discharge card of IP 791702 and Ext.A4 is the copy of plaint. Copy of acknowledgment dated 13.07.2011 is marked as Ext.A5. The advocate commissioner, who has prepared Ext.C1 and C2, was also examined as PW2.

5. Heard counsel for the plaintiff.

6. Counsel for the plaintiff has made it clear that he is not pressing for the relief of mandatory injunction as prayed for in the suit. Counsel for the plaintiff has made an endorsement to that effect. Counsel for the plaintiff has further submitted that the claim raised by the plaintiff is confined to the portion shown as the plaint schedule property in Ext.C2(a) plan.

7. The case of the plaintiff with respect to the prohibitory injunction sought stands proved through the evidence of PW1 and PW2 and the documents marked. Hence, the suit is decreed in part as follows:

1. Defendants are restrained by a permanent prohibitory injunction from widening the pathway at the northern side of the plaint schedule property either by encroaching upon plaint A schedule item Nos.1 and 2 properties shown in Ext.C2(a) or by demolishing any structure in item Nos.1 and 2 properties in Ext.C2(a).

2. Defendants are also restrained by a permanent prohibitory injunction from causing any obstructions to the plaintiff constructing a compound wall at the western side of the plaint schedule property.

3. Ext.C2(a) shall form part of the decree.

Dictated to the C.A, transcribed and typed by her, corrected and pronounced by me in Open Court on this the 21st day of November, 2018.

Sd/-
RAJEEV. V
MUNSIFF

Appendix:

Exhibits for the plaintiffs:

- A1 Certified copy of sale deed No.2080/96 dated 20/07/1996
- A2 Tax receipt No. 1288633 dated 26/04/11
- A3 Discharge card dated 05/07/11
- A4 Copy of complaint dated 13/07/11
- A5 Acknowledgment receipt dated 13/07/11

Witness for the plaintiffs:

- PW1 01/11/18 Nalini. K.S
- PW2 12/11/18 Nisha

Court Exhibits:

- C1, C1(a) Commission Report and Rough sketch dated 19/07/11
- C2, C2(a) Commission Report and plan dated 11/06/18

Id/-
MUNSIFF

// True Copy //

Typed by: Sakkeena Beevi
Compared by:

MUNSIFF

