

IN THE COURT OF THE SUB JUDGE, CHAVAKKAD

Present:- Sri. V. Vinod, Sub Judge
Friday, the 22nd day of December, 2023/1st Pousha, 1945.

O.S.146/2022

Plaintiff:-

Jayaraj, aged 62 years,
S/o. Anedath Valiyil Vijayalakshmi,
Pavaratty Village, Desom, P.O. Pavaratty,
Chavakkad Taluk, PIN – 680 507.

By Adv. T.R. Vaidyanathan.

Defendants:-

1. Leena Mohanan, aged 58 years,
W/o. Kulangara Paran Mohanan,
Pookkode Amsom, Kappiyoor Desom,
Chavakkad Taluk, Now at Kulangara House,
P.O. Guruvayoor, PIN- 680 101.
2. Mohanan, aged 62 years,
S/o. Kulangara Paran, Pookkode Amsom, -do-.
3. N.Kumarannair, aged 81 years,
S/o. Appunair, Nangakkil Veedu,
Pavaratty Amsom, Desom, Manappadi,
P.O. Pavaratty, Chavakkad Taluk, PIN – 680 507.

D3 by Adv. K.K. Sindu.
D1 & D2 -Exparte.

Suit is coming on 18.12.2023 for final hearing in the presence of counsels for both sides and having stood over for consideration till this day, the court delivered the following :-

JUDGMENT

The suit is one filed for a permanent prohibitory injunction and mandatory injunction directing the defendants.

2. The case of the plaintiff in brief is as follows: The plaintiff A schedule property was originally owned by the mother of the plaintiff by name Vijayalakshmi. Out of that 5 1/2 cents of property has been settled by the mother in favour of the plaintiff. The same is shown as plaintiff B schedule property. In that the plaintiff has constructed a house and residing in it. From the plaintiff A schedule property the mother has assigned 8.056 cents to the 1st defendant. The same is shown as plaintiff C schedule property. The mother died on 12.12.2010. Thereafter the balance property devolved upon the plaintiff and the 3rd defendant. The balance property is shown as D schedule property. The defendant Nos. 1 and 2 have encroached into the D schedule property and a portion has been reduced into their possession on 1.2.2020. The same is shown as E schedule property. They constructed barbed fencing on the encroached area. The suit is filed for recovery of possession of the E schedule property on the strength of title from defendant Nos. 1 and 2, for permanent prohibitory injunction restraining them from trespassing into the plaintiff B and D schedule property and to demolish the concrete barbed wire fencing constructed in the plaintiff B schedule property and for fixation of boundary of plaintiff C and D schedule property and for costs.

3. The defendant Nos. 1 and 2 appeared. They did not file written statement. Hence they were called absent and were set ex-parte.

4. The 3rd defendant filed chief affidavit admitting the plaintiff claim. The plaintiff filed chief affidavit and Ext. A1 to A3 and C1 series and C2 series were marked. From Ext. C2 (a) and (b) plans it can be seen that the defendant Nos. 1 and 2 have trespassed into the E schedule property and reduced the same to their possession. Hence the plaintiff is entitled to recover the possession of the plaintiff E

schedule property on the strength of title. They are also entitled to permanent prohibitory injunction restraining the defendants from trespassing into the plaint B and D schedule properties. They are also entitled to a mandatory injunction directing the defendants to demolish the barbed wire fence constructed by trespassing into the property of the plaint D schedule property. With regard to fixation of boundary the larger relief of recovery of possession is given. Hence, the plaintiff is entitled for the relief of fixation of boundary. With regard to the damages, the plaintiff has not adduced any evidence to prove the same.

In the result,

- a) The suit is decreed in part and the plaintiff and the 3rd defendant are entitled to recover possession of the plaint E schedule property on the strength of title from the defendant Nos. 1 and 2.
- b) The defendant Nos. 1 and 2 are restrained from trespassing into the plaint B and D schedule property.
- c) The defendants shall demolish the barbed wire fencing constructed by them by encroaching into the plaint D schedule property.
- d) The plaintiff is also entitled to get costs of the proceedings.

(Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court, on this the 22nd day of December, 2023).

sd/-
V. VINOD,
SUB JUDGE.

APPENDIXPlaintiff's Witnesses:- NilDefendant's Witnesses:- NilPlaintiff's Exhibits:-

Ext.A1.	24.05.1978.	Certified copy of deed No. 2435/1978 of SRO., Thrissur.
Ext.A2.	06.03.1991.	Certified copy of settlement deed No. 303/1991 of SRO., Kottappady.
Ext.A3.	04.02.2010	Certified copy of deed No. 2093/2010 of SRO., Kottappady.
Ext.A4.	05.11.2022.	Original Tax receipt.
Ext.A4(a)	05.11.2022.	Original Tax receipt.

Defendant's Exhibits:- NilCourt Exhibits:- Nil

Ext.C1.	05.01.2023.	Commission report.
Ext.C1(a).	05.01.2023.	Sketch.
Ext.C2.	17.10.2023.	Commission report.
Ext.C2(a).	17.10.2023.	Sketch.

/true copy/

Copied by : PPA
 Compared by: ps

sd/-
SUB JUDGE.
 By Order,
 Sheristadar