

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

PRESENT: Tmt. V. Devapriya, B.Sc., M.L.
District Munsif, Madurantakam

Wednesday, the 30th day of August, 2023

I.A.No. 2/2022

in
O.S. No. 113/2022

Annamary

...Petitioner/Plaintiff

-vs-

Jerome*

(*Amended as per order in I.A. No. 4 of 2022 dated 16.12.2022)

...Respondent/Defendant

This petition coming up before me on 12.07.2023 for final hearing in the presence of, Thiru.N.Ganapathi, counsel for the Petitioner/Plaintiff and Thiru. G.S.Suresh Babu, Counsel for the Respondent/ Defendant and after hearing the arguments on both sides and upon perusing the materials placed on record, and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition has been filed by the Petitioner/ Plaintiff under Order XXXIX Rule 1 and 2 of Code of Civil Procedure, for temporary injunction restraining the Respondent/Defendant, his men, agents and servants, legal representatives and heirs, from, in any way, interfering with the Petitioner/Plaintiff's peaceful possession and enjoyment of the petition mentioned property, till the disposal of the suit.

2.The averments stated in the petition in brief:

The petition mentioned property is a gramamatham house site and the Petitioner/Plaintiff is in possession and enjoyment of the same for more than three decades. The Government also recognised her possession and had granted gramamatham patta in Patta No. 491, in favour of the Petitioner/Plaintiff. Thus the Petitioner/Plaintiff is the absolute owner of the petition mentioned property. The Petitioner/Plaintiff had constructed a house in the same and was residing there. Now the house is in dilapidated condition and at present, it is a vacant site. The Petitioner/Plaintiff was paying house tax and the electricity consumption charges was paid by the Petitioner/Plaintiff in service connection No. 09-524-003-305.

3. The Respondent/Defendant is a stranger to the petition mentioned property. While so, on 25.09.2022, the Respondent/Defendant, along with his henchman, came to the petition mentioned property and interfered the Petitioner/Plaintiff's peaceful possession and the same was successfully prevented by the Petitioner/Plaintiff. The Respondent/Defendant is powerful in men and money and he may renew his attempt any time. Hence this petition.

4. The averments stated in the written statement filed by the Respondent/Defendant and treated as counter, in brief:

This petition is not maintainable in law and facts. The averments stated by the Petitioner/Plaintiff are false. The Respondent/Defendant is in possession and

enjoyment of the meikkal poromboke in survey No. 285/2 to an extent of Ac 0.05 cents and he had put up two shops over the same and he is running a xerox shop and mini breakfast stall. The Respondent/Defendant is the adjacent land owner of meikal poromboke in survey No. 285/2 and many villagers of Thatchur village are in possession and enjoyment of the said meikal poromboke.

5. Originally, the survey No.285 is classified as meikal poromboke and later it was sub-divided as Survey no. 285/1 and 285/2. The survey number 285/1 is classified as gramanatham and the survey number 285/2 is still a meikal poromboke land and many villagers are in possession of the said meikal poromboke. No patta has been granted to any person, in survey number 285/2 and therefore the patta filed by the Petitioner/Plaintiff, as if it was granted to survey number 285/29 to an extent of 120 square metre, is a forged one and the same was acknowledged by the Public Information Officer, Taluk Office, Madurantakam.

6. The Respondent/Defendant had not attempted to interfere Petitioner/Plaintiff's peaceful possession and enjoyment of the petition mentioned property. There is no sub-division in survey number 285/2 and therefore this petition is not maintainable. The injunction cannot be granted in respect of government property, without adding the government as a party to the suit. There is no cause of action and hence this petition is to be dismissed with exemplary cost under section 35A of the Code of Civil Procedure.

7. The point for determination is whether this petition is to be allowed or not?
8. On the side of the Petitioner/Plaintiff, Exhibits P-1 to P-4 were marked and on the side of the Respondent/Defendant, Exhibits R-1 to R-7 were marked. No witnesses were examined on both sides.
9. Heard both sides arguments and perused the records.
10. The Petitioner/Plaintiff had filed this petition praying for interim injunction restraining the Respondent/Defendant from interfering her peaceful possession in the petition mentioned property, till the disposal of the above suit. Per contra, the Respondent/Defendant contended that the survey number 285 was subdivided as survey number 285/1 and 285/2 and that there is no sub-division as survey number 285/29.
11. The Exhibit P1 prima facie shows that the patta has been granted in favour of the Petitioner/Plaintiff, in respect of the petition mentioned property. The Exhibits P2 to P4, prima facie shows the Petitioner/Plaintiff's possession in the petition mentioned property.
12. The Exhibit R1 is the petition sent by the Respondent/Defendant under the Right to Information Act and the Exhibit R2 is the postal acknowledgement card. The main contention of the Respondent/Defendant is that there is no survey number as 285/2. Even though, in Exhibit R3, the Zonal Deputy Tahsildhar, Madurantakam, under the reply to the petition under Right to Information Act, had stated that there is no survey number 285/2 in village

accounts, the said fact can be determined only after the trial, by analysing the evidences on both side. The said question cannot be adjudicated while deciding the petition for grant of temporary injunction.

13. The Petitioner/Plaintiff had shown prima facie case and balance of convenience in her favour, through Exhibit P1 to P4 and that she will suffer irreparable loss, if the interim injunction is not granted. Hence, for the foregoing reasons and in order to prevent the ends of justice, from being defeated, this court is inclined to allow this petition.

14. In the result, this petition is allowed and the interim injunction already granted on 29.09.2022 is made absolute until the disposal of the suit. No costs.

Typed by me in my laptop, corrected and pronounced by me in open court on this the 30th day of August, 2023

District Munsif
Madurantakam

Witness examined by the Petitioner/Plaintiff:

- Nil -

Exhibits marked by the Petitioner/Plaintiff:

Ex.P-1- Gramanatham Patta

Ex.P-2- House Tax Receipts (7 Nos.)

- Ex.P-3- Electricity consumption charges card
Ex.P-4- Electricity Bills (5 Nos.)

Witness examined by the Respondent/Defendant:

- Nil -

Exhibits marked by the Respondent/Defendant:

- Ex.R-1- Petition under Right to Information Act dated 30.11.2022
Ex.R-2- Postal acknowledgement card
Ex.R-3- Reply of Public Information Officer/Zonal Deputy Tahsildhar dated
25.04.2023
Ex.R-4- House Tax Receipts (3 Nos.)
Ex.R-5- Electricity consumption charges card
Ex. R-6 Certificate issued by Village Administrative Officer dated 18.07.2000
Ex. R-7 Photos (4 Nos.) with CD

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