

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF,  
NAGERCOIL**

Present: **Thiru. R.Sundara Kamesh Marthandan, M.L.,**  
Principal District Munsif, (FAC) Nagercoil.

Monday, on this the 26<sup>th</sup> day of June 2023

**I.A. No. 2 of 2022**  
**in**  
**O.S. No. 161 of 2022**

J.Johnsi

... Petitioner/Plaintiff

-vs-

Alice Renet Vimala

...Respondent/Defendant

This Petition came up before this Court for hearing on 09.06.2023 in the presence of Thiru. Pon Selvarajan, Advocate for the Petitioner/Plaintiff and Thiru. N.M.Sukumaran, Advocate for the Respondent/Defendant and upon hearing the Petitioner's and Respondent's Counsels and upon perusing the case records and having stood over till date for Consideration, this Court delivers the following:

**ORDER**

1. The Petitioner had filed the above petition seeking Prohibitory injunction restraining the Respondent from interfering with the peaceful possession and enjoyment of the Plaintiff over the plaint schedule property.

2. The Petitioner had filed the above interlocutory application. However he had simply reproduced the suit prayer itself in the interlocutory application prayer. The Petitioner claimed to be the owner of the plaint schedule property

being 3 cents comprised in Old Survey No.247 of Vembanoor East Village correlated to Re-survey No. 809/4A1A1 and that she is in absolute title and possession and enjoyment by acquiring the same under Settlement Deed dated 01.06.2015 bearing Doc. No. 1458 of 2015 executed by her brother Robertson.

3. The Petitioner stated that the petition schedule property consists of a house building and that she and her family members are residing therein. The Defendant/Respondent without any semblance of right interfered with the Petitioner's peaceful possession, because of personal animosity and that on 03.09.2022 the Respondent with her rowdy associates unlawfully trespassed into the petition schedule property and intimidated the Petitioner. Once again on 12.09.2022 such act was repeated. The Petitioner stated that the Respondent and her men may at any time interfere, unless and interim injunction is granted in her favour.

4. The Respondent had file the written statement and adoption memo and adopted the written statement as counter in the above I.A. The Respondent had stated that the suit is not maintainable, false, frivolous and vexatious. There is no cause of action for the above suit and it is bad for non joinder of necessary parties. The Respondent had stated that the suit property belonged to one Jeyasingh Robertson, former sergeant in the Indian Army and has been bed-ridden for the past 10 years. The said Jeyasingh Robertson purchased the suit property for valuable consideration under Sale Deed dated 19.02.2001 bearing Doc. No. 375 of 2001 Rajakkamangalam Sub Registrar Office and mutated

revenue records in his name, obtained Patta and is in exclusive possession and enjoyment with well defined boundaries.

5. Further the Petitioner is an utter stranger and taking advantage of the said Jeyasingh Robertson's ailments, inability, the Petitioner tried to trespass into the suit property, but the same was thwarted. Further the Respondent had stated that the said Jeyasingh Robertson had not sold the property to the Petitioner and if any document has been created, it would be manipulation, taking advantage of the illness of Jeyasingh Robertson. The Respondent had stated that apprehending disturbance by the Petitioner, the said Jeyasingh Robertson had filed O.S.No. 219 of 2022 before this Court. Hence he is necessary party for the above suit. Failure to impleading him, warrants dismissal of the suit.

6. The Point for Consideration is whether the above petition has to be allowed or not?

7. The Petitioner had exhibited Ex.P1 to P6. Ex.P1 is the Settlement Deed dated 01.06.2015 bearing Doc. No. 1458 of 2015, whereby the petition schedule property had been settled on the Petitioner ,by the said Robertson. Though the Petitioner stated of accepting the settlement and receiving the original. The Petitioner had filed the certified copy of the Settlement Deed as Ex.P1. The Ex.P2 & P3 are Kist receipts dated 30.09.2021, 14.09.2022 in respect of land Survey No. 809/4A1A1A1 for fasali 1431 in the name of the Petitioner. Ex.P4 is the Joint Patta bearing No. 7399 in respect of the petition

schedule property issued in the name of 321 persons, where is the Petitioner's name is found in Serial No. 264 as Joint Pattadar. Ex.P5 is the Property Tax receipt dated 21.12.2021 in the name of the Petitioner in respect of the property bearing Door No. 4778, Thamattukonam. Ex.P6 is the Electricity Charges Payment receipt dated 13.08.2022 in the name of the Petitioner in respect of Electricity Service Connection No. 07-113-022-391. Ex.P7 is the complaint copy dated 12.09.2022 given by the Petitioner to Sub-Inspector, Rajakkamangalam Police station.

8. The Defendant/Respondent in her counter had stated that the petition schedule property originally belonged to Robertson and that he was Sergeant in the Indian Army and was bed-ridden for the past 10 years. The Petitioner had stated that she derived title over the petition schedule property from the said Robertson under Ex.P1. Further Ex.P1 is of the year 2015 and to show the same had been accepted and acted upon, the Petitioner had filed Ex.P2 to P6 documents, which would show that the Petitioner had mutated revenue record and got her name inducted in the joint patta, made property tax assessment in respect of the petition schedule property in her name and got Electricity service connection in her name and had also had paid kist in respect of the petition schedule property in her name.

9. The Respondent's contention that the said Robertson was bed-ridden for 10 years and all documents allegedly executed, taking advantage of his illness is bad are not any facts, affirmed by the Respondent. The Respondent

had not produced any document to prove the alleged illness of Robertson. Though the Respondent had stated that the said Robertson had filed Civil suit namely O.S.No. 219 of 2022, the Respondent had not produced the copy of the said plaint before this Court.

10. Since both the Petitioner and Respondent have stated that the property originally belonged to Robertson and the Petitioner had pleaded and produced documents to show that she acquired title from the said Robertson, this Court is of the considered view that the Petitioner had made out prima facie case. Further the Respondent having pleaded that the said Robertson is the owner of the petition schedule property, the Respondent had not pleaded as to her entitlement over the petition schedule property. In such circumstances in between the Petitioner and the Respondent, the balance of convenience is in favour of the Petitioner.

11. Further it is stated that the petition schedule property is a house property assessed to Property tax with Electricity service connection and Ex.P2 to P6 documents are all in the name of the Petitioner. Further the Petitioner had stated that on two occasions, the Respondent attempted to trespass, damage the petition schedule property and intimidated the Petitioner. To support her contention, the Petitioner had filed Ex.P7 complaint with the Sub-Inspector of Police, Rajakkamangalam Police station. As it is stated that the petition schedule property is house property and if the Petitioner is dispossessed unlawfully, the loss to which she will be put to, Could not be compensated in

terms of money.

12. In such case this Court is of the considered view that the Petitioner had established prima facie case, balance of convenience and irreparable injury in so far as the petition relief. The Petitioner has sought for permanent prohibitory injunction allowing the same will amount to decreeing the suit. Considering that, this Court hereby orders interim injunction in favour of the Petitioner.

In the result, interim injunction restraining the Respondent from interfering with the peaceful possession and enjoyment of the Pettioner over the plaint schedule property is passed against the Respondent, pending disposal of the suit. No Cost.

Dictated to the Steno Typist, and typed by her directly in computer, corrected and pronounced by me, in Open Court this, the 26<sup>th</sup> day of June, 2023.

Principal District Munsif,(FAC)  
Nagercoil.

Petitioner side witnesses: Nil

Petitioner side documents:

Ex.P1 - 01.06.2015 Sale Deed bearing Doc. No. 1458 of 2015

Ex.P2 - 13.09.2021 Revenue Tax receipt

Ex.P3 - 14.09.2022 Revenue Tax receipt

Ex.P4 - 19.08.2021 Computerized Patta

Ex.P5 - 21.12.2021 Property Tax Receipt

Ex.P6 - 13.08.2022 Electricity Charges Payment Receipt

Ex.P7 - 12.09.2022 Police Complaint

Respondent side witnesses and documents : Nil

Principal District Munsif,(FAC)  
Nagercoil.

I.A. No.2 of 2022  
in  
O.S. No.161 of 2022  
Draft/Fair Order  
Date: 26.06.2023.  
PDM, Nagercoil.