

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF  
PADMANABHAPURAM.

Present: Thiru.A.Maruthupandi, B.Com., B.L.,  
Principal District Munsif,

Thursday, the 01<sup>st</sup> day of December 2022

I.A. No.01 of 2022  
in  
O.S. No. 27 of 2022

Sobitharaj

..Petitioner/Plaintiff

/ Vs. /

Poovas

.. Respondent/Defendant

This petition is coming before me for final hearing in the presence of Mr.C.Vijayakumar, learned counsel for the petitioner and Mrs.S.Dathy, learned counsel for the respondent/defendant. Upon hearing the counsel on both side and on perusal of the records stood over for consideration till this day, this court passed the following :-

ORDER

This petition is filed under Order 39 Rule 1 and 2 and Section 151 of the Civil Procedure code to pass an order of interim injunction restraining the defendant, their men or agents from encroaching or trespassing or committing any act of waste in the suit schedule property.

**2. THE AVERMENTS IN THE PETITION IN BRIEF :-**

i) The suit is filed for permanent injunction, demarcation. The plaint schedule

property is purchased by the petitioner/plaintiff on 13.07.1984 from Abraham Nadar through the Doc.No.5130. The plaintiff is in peaceful and beneficial enjoyment of the plaint scheduled property by paying tax and mutated and changed patta in his name. The respondent/defendant's property is lying on the southern side of the plaint scheduled property and clear survey stones are available between the property of the plaintiff and defendant. The defendant's property lower level than the plaint scheduled property and plaintiff's property is R.S.No.20/10 and defendant's property is R.S.No.24/1. Since the defendant property lies in lower level, the defendant carving out, little by little changing on the southern side the boundry of plaint scheduled property and lastly on 05.03.2022 and due to the timely intervention, the defendant attempts were thwarted.

ii) The respondent/defendant has no manner of right over the plaint scheduled property and the last of such attempt was made on 05.03.2022, due to the timely intervention, the defendant attempts were thwarted and if the defendant is succeeded in his attempt the plaintiff will e put to irreparable loss and damage.

**3. THE AVERMENTS IN THE COUNTER FILED BY RESPONDENT / DEFEDNANT IN BRIEF :-**

The petitioner/ plaintiff is not entitled to 45 cents as alleged in the plaint. As per the plaintiff has lesser area. The plaint that the defendant is attempting to carve

little by little on the southern boundary. The respondent/defendant is the owner of adjacent southern portion of the plaint schedule property and in respect of some portion, he has executed a settlement deed in respect of 11 cents infavour of his son namely vijayakumar. Therefore the said son of the respondent/defendant is a necessary party for a proper and effective adjudication of this case. The aim of the petitioner/plaintiff is to gain unlawfully by filing this vexatious suit, hence this petition is liable to be dismissed.

4. POINTS FOR DETERMINATION : -

Whether the petitioner/plaintiff is entitled to the relief as prayed for or not?

5. DISCUSSION AND ANALYSIS : -

Both side argued. Records perused carefully.

i) The learned counsel for the petitioner/plaintiff argued that the original suit is filed for getting a decree of permanent injunction and demarcation of suit schedule property. The petitioner/plaintiff 's property is situated Higher than the property of respondent/defendant, so the respondent/defendant is carving out and little by little changing on the southern side boundary of suit schedule property and he lastly attempted on 05.03.2022 but the same was thwarted, hence this petition has been filed for granting an ad-interim injunction.

ii) The learned counsel for the respondent/defendant argued that the

respondent/defendant did not do the same as alleged by the petitioner/plaintiff, but this petition has been filed to harass the respondent/defendant and the petitioner/plaintiff is trying to get an order by suppressing true fact of the case, so the petition is liable to be dismissed.

iii) On perusal of an affidavit and other relevant materials it is found that the property of respondent/defendant is situated lower than the property of petitioner/plaintiff. The petitioner/plaintiff stated that the respondent/defendant is trying to carving the mud on the southern side boundary of suit schedule property, hence in the said circumstances the prima facie case is made out and balance of convenience also infavour of petitioner/plaintiff and if this petition is allowed no prejudice would be caused to the respondent/defendant, so in the interest of justice this court is inclined to pass an order of "Status Quo", because of if an order of "status Quo" is passed no prejudice would be caused to the both parties to the suit, because of an order is passed to prevent the both parties from doing my unlawfull activities.

**6. DECISION :-**

In the result, an order of "Status Quo" is granted. The both parties to the suit is directed to maintain the said order till disposal of Main Suit.

Written by me typed by the Steno-Typist in computer, corrected and pronounced by me in open court, on this 01<sup>st</sup> day of December, 2022.

Principal District Munsif ,  
Padmanabhapuram.

ADMC, Padmanabhapuram.

I.A.No.04/2021 in O.S.No.116/2017

Draft/Fair Order:

Dt: 14.11.2022.