

**IN THE COURT OF ADDITIONAL DISTRICT MUNSIF
PADMANABHAPURAM.**

Present: Tmt, S. Immaculate Buddha, B.Sc., L.L.M,

Additional District Munsif.

Monday , the 30th day of March 2026

O.S.No. 142/2016

CNR.No.TNKK08-000185-2016

Ramakrishnan

....plaintiff

/ Vs /

Parukutty Amma

...Defendant/ Counter Claimant

This suit is coming before me for final hearing in the presence of Mr. K. Gopakumar, learned counsel for the Plaintiff and Mr. S. Ramachandran Nair learned counsel for the defendant/Counter Claimant. Upon hearing the both side counsel and on perusal of the records stood over for consideration till this day, this court delivers the following :-

JUDGMENT

This suit is filed to put up northern boundary of plaint B schedule property through court at the expense of plaintiff and permanent injunction restraining the defendant and his men not to trespass in to the plaint schedule property.

The Counter claim is filed by the defendant/counter claimant for damages for Rupees one lakh with interest 12 % per annum from the date of the counter claim with costs.

2. THE AVERMENTS IN THE PLAINT IN BRIEF :-

i) The plaintiff is owner of plaint schedule property having an extent of 77 cents comprised in Resurvey.No. 25/7 of Mecode Village. Now Mecode village is bifurcated as Mecode Village and Kumarankudy Village and plaint schedule property comes in Kumarankudy Village and the same is described as A schedule property. A schedule property is the northern portion of plaint B schedule property. From the date of purchase onwards the plaintiff has been enjoying the property and 1 ½ years back he has planted rubber after removing the old trees. The defendant property lies on the northern side of plaint schedule property and it is lower in level than plaint schedule property. Now utilizing the level of difference and illness of plaintiff the defendant is trying to encroach in to the plaint schedule property claiming that she is having more extent in the plaint schedule property.

ii) On 22.08.2016, the defendant tried to encroach the plaintiff schedule property and the illegal act of defendant was prevented by the plaintiff and his men. The defendant property comes in resurvey No. 25/6, of the above said Village. The defendant has no right, title or possession over the plaintiff schedule property. But the defendant claims about two cents on the northern portion of resurvey 25/7, which is described as B schedule property. The plaintiff tried to put up boundary on the northern side of plaintiff schedule property on 12.09.2016 and the defendant objected for the same with the intention to trespass in to the plaintiff schedule property. The plaintiff is satisfied to restrain his right within resurvey No. 25/7. But the defendant is not allowing to measure the property. Utilising the fact she is a woman she is obstructing the surveyors. Hence, this suit.

3. BRIEF OF WRITTEN STATEMENT/COUNTER CLAIM FILED BY THE DEFENDANT IS AS FOLLOWS :-

i) The defendant's property is only comprised in Re.Sy.No. 25/6 lying north of Resurvey No. 25/7. The defendant is owner of 54 $\frac{3}{4}$ cents property in Re.Sy.No. 25/6 of present Kumarnakudi Village but the allegation as the defendant's property fully lies in lower level is not correct and this defendant property lies in different levels. The

defendant is the only daughter of Bhagavathipillai who was the original owner of the property in Re.Sy.No. 25/6 and others as per partition deed No. 2227/114 ME wherein C schedule property was allotted jointly to Bhagavathipillai, and minor children including the defendant. On 04.04.2014 at about 12 PM the plaintiff along with others took away the Anjili wooden cuts and this defendant lodged police complaint on 05.04.2014 at Thiruvattar police station which was very influential this defendant made representation to the superintendent of police Kanyakumari at Nagercoil, which referred the same for enquiry and the A.S.P. office which got information from SP office, sent notice calling upon the defendant to appear before ASP in the presence of Thiurvattar Inspector of Police on 26.07.2014 and on that day the defendant produced records relating to the ownership and inherited title of the defendant with photographs showing location of the Anjili tree. In the meantime boundary stone was also removed by the plaintiff as this defendant is residing with daughter at Thiruvattar.

ii) Consequently this defendant got letter from Firka Surveyor informing of measurement in Re.Sy.No. 25/7 on 24.07.2014 at 10.30 P.M. The defendant was present at the spot but the plaintiff was purposely absence. Again as directed by the police this defendant

filed petition for measuring the property in Re.Sy.No. 25/6 and firka surveyor issued notice calling upon the defendant to be present on 25.01.2016 and on that date firka surveyor measured and fixed boundary in the presence of sub inspector of police and 2 constables. But the plaintiff with ill motive went away from the spot. Hence this defendant made representation to superintendent of Police on 09.05.2016 making out inaction on the petition given for theft of 100 years old Anjili wood cuts worth of Rs.1.5 lakhs. Soon the plaintiff filed this suit and allayed the police action for theft.

iii) On 22.08.2016 the defendant tried to encroach the plaint schedule property is utter falsehood and it is found given for the vexatious suit so as to appropriate the value of Anjili tree belonging to this defendant and this defendant is entitled to unliquidated damages for tortuous acts coupled with illegal act making could on the title of this defendant over Re.Sy.No. 25/6. The plaintiff has no cause of action to file the suit against this defendant scheduling 25/7 as A and B. This defendant cordially welcomes the plaintiff to cooperate in fixing dividing line in between the northern boundary of Re.Sy.No.25/7 and the southern boundary of Re.Sy.No.25/6 and this defendant takes commission in this regard and as such plaint disputed. The defendant is entitled to compensatory costs from the plaintiff for

having filed this vexatious suit to avoid criminal action for Anjili tree stolen from this defendant's property apart from value of the tree. This defendant is filing counter claim limiting claim to Rs. 1 Lakhs by way of damages. Hence, suit is liable to be dismissed and the counter claim is to be decreed.

4. SETTLED ISSUES :-

On the basis of pleadings on both sides, the following issues were framed.

1. Whether the plaintiff is entitled for decree of demarcation of plaint B schedule property as prayed for?
2. Whether the plaintiff is entitled for Permanent Injunction as prayed for?
3. Whether the defendant is entitled for a cost of Rs. 1 Lakh with 12% interest as prayed for?
4. For what other relief the both parties are entitled to?

5. EVIDENCES :-

To prove the case, on the side of plaintiff, the plaintiff was examined as PW.1 and Ex.A.1 and Ex.A.2 were marked. On the side of defendant, One Rathi was examined as DW.1 and Ex.B1 to Ex.B11 were marked and Ex.C1 and C2 were marked.

6. WITH REGARD TO ISSUE NO. 1 :-

i) The learned counsel for the plaintiff argued that the plaintiff has 77 cents in Re.S.No.25/7 of Meycode village. The northern boundary of the plaintiff's property adjoins the defendant's property (Re.S.No.25/6) and the defendant's property is lower in level. Utilizing this difference, the defendant encroached upon the plaintiff's schedule property. So the properties of the plaintiff and defendant have to be demarcated.

ii) The learned counsel for the defendant filed written argument stating that the defendant cut down the Anjili tree and kept it on the eastern side of her property. The plaintiff took away the wooden log on the midnight of 04.04.2014. The defendant filed a complaint at Thiruvattar Police Station on 05.04.2014. But no action

was taken, she filed a complaint with the Superintendent of Police, which was forwarded to the ASP office. During the enquiry, the defendant submitted documents relating to her title and photographs showing the location of the Anjili tree. The police officials directed to measure the plaintiff's property to determine the exact location of the Anjili tree. On 24.07.2014, the defendant was present at the spot, but the plaintiff was purposefully absent. So the defendant gave a petition to measure her property in Re.S.No.25/6. The Anjili tree stood in Re.S.No.25/6 as per the measurement, suddenly the plaintiff moved away from the place. The plaintiff filed this suit only to evade from police action. Hence, the defendant should be compensated Rs.1 lakh for stealing the wooden log.

iii) The learned plaintiff counsel argued that the road for both plaintiff and defendant is on the eastern side of the channel. Two electric poles are placed to cross the channel. It is impossible for anyone to move the massive wooden log from the western side of the channel to the eastern side over the two electric poles, which are 1 ½ or 2 feet wide.

iv) This suit is filed to demarcate the plaintiff's northern boundary and the defendant's southern boundary. The plaintiff and

defendant properties have 2 different survey numbers, Re.S.No.25/7 and Re.S.No.25/6. When there is a dispute between two survey numbers, the plaintiff has to take necessary steps to measure the property through a survey officer. If he is aggrieved by the measurement, he shall file a suit as per section 45 of Tamil Nadu Court Fees and Suits Valuation Act,1955. There is no pleading about what steps he took to fix the boundary line between him and the defendant. According to section 45 of Tamil Nadu Court Fees and Suits Valuation Act, 1955, the court fee shall be calculated on one half of market value of the property. The plaintiff calculated the court fee under sec 50 of that Act.

v) Moreover, the defendant filed the commission application to measure the disputed survey line. But the plaintiff opposed the commission application filed by the defendant. From this, it can be inferred the plaintiff does not have a real boundary dispute. The plaintiff filed this suit for demarcation, but no steps were taken by the plaintiff to demarcate the northern boundary.

vi) The defendant stated in the written statement that the taluk Surveyor sent a notice for measuring the plaintiff's property. Ex B7 is the notice sent by the Taluk Surveyor. The defendant stated that

on the fixed date, the plaintiff was purposely not present at the spot. The plaintiff did not specifically deny it, so it will give an adverse inference against the plaintiff. Ex.B2 shows there is a survey stone in the middle and southeastern corner of Re.S.No. 25/6. In the commission plan Ex C2, the southeastern boundary stone is alone between the plaintiff and defendant property. The boundary is well defined as per Ex.B2. So the plaintiff is not entitled to demarcation of his northern boundary.

Issue no.1 is answered accordingly.

7. WITH REGARD TO ISSUE NO. 2 :-

There is no evidence put forth by the plaintiff to show that the defendant trespassed into the plaintiff's property. In fact, the defendant has no objection to measuring the property. The plaintiff is not willing to measure the property through an application to the Taluk Surveyor or through appointment of a commissioner via court to find out if any trespass by the defendant. The conduct of the plaintiff itself disentitles him from the relief of injunction. According to Section 37(2) of the Specific Relief Act, 1963, a permanent injunction can be granted when the defendant's act is contrary to the plaintiff's right. Here, the defendant is not acting contrary to the

plaintiff's right. Therefore, the plaintiff is not entitled to a permanent injunction to restrain the defendant from trespassing into the plaintiff's schedule property.

Issue no.2 is answered accordingly.

8. WITH REGARD TO ISSUE NO. 3 :-

i) The defendant stated that she cut down the Anjili tree and kept on the eastern side of her property. The plaintiff took away the wooden log in the mid night of 04.04.2014. So she filed a complaint to Thiruvattar Police Station. Due to their inaction she filed complaint to the Superintendent of Police. It was forwarded to ASP, during the enquiry the plaintiff and others admitted their wrong and agreed to give compensation. But they did not give the compensation amount. Ex.B3 and Ex.B4 is the complaint given to the Superintendent of Police by the defendant. Ex.B9 is the CSR for the complaint given to Thiruvattar Police Station. The defendant failed to produce the admission allegedly made by the plaintiff to the police officials.

ii) During the cross examination of DW1 she deposed that she is not residing near occurrence place. She is 2 km away from the suit property. The defendant gave complaint not only against the

plaintiff but also against three others. DW1 during her cross examination deposed that the plaintiff asked the wooden log for consideration, they denied so she suspected that the plaintiff must have stolen the wooden log. Moreover she deposed that the wooden log were moved using JCB. But she did not know the JCB number and lorry number. She deposed that the incident happened in the mid night, she came to know the incident in the next morning and she deposed that everyone nearby the property knew the incident, but no one was examined in this case. The defendant's daughter was examined as DW1. At the time of incident the defendant is residing in her property or in her daughter's house is not clear. Based on the suspicion it cannot be conclude that the plaintiff stole the wooden log. So the defendant is not entitled for the compensation of Rs.1 lakh.

Issue no.3 is answered accordingly.

9. WITH REGARD TO ISSUE NO. 4 :-

Both parties are directed to bear their own cost and no other relief is entitled by the parties.

10. RESULT :-

In the result, the suit is dismissed. Counter claim is also dismissed. No cost.

Dictated to the Steno-Typist directly, typed by her in computer, corrected and pronounced by me in open court, on this 30th day of March 2026.

Additional District Munsif,
Padmanabhapuram.

Plaintiff 's side witnesses :-

1. P.W.1. - Ramakrishnan

Defendant 's side witnesses :-

1. D.W.1. - Radhi

Plaintiff 's side Documents :-

1. Ex.A.1	-	16.09.1985	-	Original Sale deed
2. Ex.A.2	-	19.09.2016	-	Original Land Tax Receipt

Defendants' side documents :-

1. Ex.B.1	-	09.09.1114	-	Attested copy of Partition deed Malayalam to Tamil translation copy
2. Ex.B.2	-	05.03.2001	-	Attested copy of Commissioner Report and plan by O.S.No. 66/2001
3. Ex.B.3	-	09.05.2016	-	Original Complaint to District Superintendents of Police

4. Ex.B.4	-	04.10.2016	-	Office copy of Complaint
5. Ex.B.5	-	27.06.2016	-	Original Police Summon
6. Ex.B.6	-	15.04.2013	-	Original complaint petition acceptance Certified
7. Ex.B.7	-	24.07.2014	-	Original Notice
8. Ex.B8	-	25.01.2016	-	Original Notice
9. Ex.B9	-	05.04.2014	-	Copy of petition receipt
10. Ex.B10	-	-	-	Original Photos 2 Nos.
11. Ex.B11	-	-	-	Online copy of Rough Sketch

Court Documents :-

Ex.C1	-	Commission Report
Ex.C2	-	Commissioner plan

ADM,
Padmanabhapuram.

ADMC, Padmanabhapuram.
O.S.No.142/2016
(CNR.No.TNKK08-000185-2016)
Draft/Fair Judgment.
Date: 30.03.2026.