

In the Court of District Munsif Cum Judicial Magistrate, Krishnarayapuram

Present: Thiru. G. Ashok Prasath B.A.B.L., M.S.E.N.

District Munsif Cum Judicial Magistrate

Friday 12th of April 2024

IA.No:03/2024 in O.S.No: 01/2024

1. Muthu

2. Rajeshwari

3. Kavitha

4. Renuka

...Petitioners/Plaintiffs

Vs

1. Nagarajan

2. Senthilkumar

3. Satheeshkumar

...Respondents/Defendants

This Petition came before me for a final hearing on 08.04.2024 in the presence of Learned Counsel Mr.Y.John Kirubakaran for the Petitioner and Learned Counsel Mr.R.Sakthivel appearing for the Respondents and thereby hearing both sides of arguments and perusal of records, this court delivers the following....

ORDER

1. The Petitioner filed the petition Under Order 39 Rule 1 and 2 of CPC Praying to grant ad-interim injunction againstst the Respondent.
2. The Brief Averments of the petition are as follows,
3. It is stated that the 1st Plaintiff in the suit and 1st Petitioner herein. The 1st Petitioner filed this affidavit for himself and other Petitioners.
4. The Petitioners filed the suit for Permanent injunction against the Respondents. The suit property stands in the name of Ramasamy who was the father of 2 to 4 Plaintiffs/Petitioners through partition release deed dated 10.05.1997. The suit property bearing the old SF.No:172/3 Pa. Further, the suit property was divided into 2 portions in which one portion of the property

bearing new SF.No:617/25 in the name of 1st Petitioner/1st Plaintiff. Patta No.121 also issued in the above mentioned new SF.No:617/25.

5. Another portion of the property bearing new SF.No.617/19 in the name of 1st Plaintiff and 2 to 4 Plaintiffs father late.Ramasamy. Patta No.1592 also issued in the above mentioned new SF.No.617/19. Moreover, the 1st Plaintiff/1st Petitioner jointly enjoying the suit property, under such circumstances, 2 to 4 Plaintiffs father Ramasamy died on 22.03.2015 and leaving behind 2 to 4 Plaintiffs as his legal heirs.
6. Under such circumstances, the suit property to be divided between the 1st Petitioner's legal heir and 2 to 4 Petitioners/Plaintiffs for which the suit property to be measured for boundary line. And further, the petitioner side tried to execute a document, at the time the Defendant/Respondents interfered into the measurement of the suit property. On 08.10.2023 the Petitioners prepared to divide the property and thereby also preparing to register the document, at that time, the Respondents/Defendants unnecessarily made a quarrel with the Petitioners and thereby filed a false complaint to the Lala pettai Police station in Cr.No:388/2023, dated:07.11.2023. It is therefore Petitioners enjoying the possession over the suit property, therefore the Defendants/Respondents causing trouble to the Petitioners/Plaintiffs in respect of measuring the suit property and execution of the document in related to the suit property. So the Respondents having no right of possession and enjoyment over the suit property. Hence the petition.
7. The Brief Averments of the counter are as follows, (Memo filed by the Respondents stating that the written statement to be treated as counter)
8. All the allegations stated in the petition were denied as false except a few were admitted as true.
9. The factual dispute between the Plaintiff and the Respondents only concern over the property bearing SF.No:617/26. Further, the above mentioned property was under the possession and enjoyment of the Respondents and their family member for several decades. The Respondents using the above mentioned property for some spiritual activities. The Plaintiffs/Petitioners claiming some novel rights over the property bearing SF.No:617/26.
10. On 08.10.2023, the 1st Plaintiff interfered the peaceful possession and enjoyment of the Respondents property bearing SF.No:617/26 with an aim to grab the above property. The 1st Plaintiff brutally attacked the 2nd Defendant. Due to impact of the above incident, the 2nd Defendant suffered injury and

same was informed the Lala Pettai Police in which FIR was registered in Cr.No:388/2023.

11. It is therefore the dispute between the Plaintiff and the Defendants only in respect of the property bearing SF.No.617/26 but under the guise of procuring the decree for the property bearing SF.No:172/3. It is therefore the Plaintiffs are trying to grab the property bearing SF.No:617/26. The Plaintiffs have not given proper details of the property. The Plaintiffs have filed the document for some other property. Hence this petition is liable to be dismissed with exemplary cost.
12. Heard both sides, Records perused, No oral and documentary evidence adduced on both sides, Whether this Petition deserves to be allowable or not?
13. The Petitioner side stated that the suit property to be divided between the 1st Petitioner's legal heir and 2 to 4 Petitioners/Plaintiffs for which the suit property to be measured for boundary line. And further, the petitioner side tried to execute a document, at the time the Defendant/Respondents interfered into the measurement of the suit property. On 08.10.2023 the Petitioners prepared to divide the property and thereby also preparing to register the document, at that time, the Respondents/Defendants unnecessarily made a quarrel with the Petitioners and thereby filed a false complaint to the Lala pettai Police station in Cr.No:388/2023, dated:07.11.2023. It is therefore Petitioners enjoying the possession over the suit property, therefore the Defendants/Respondents causing trouble to the Petitioners/Plaintiffs in respect of measuring the suit property and execution of the document in related to the suit property. So the Respondents having no right of possession and enjoyment over the suit property.
14. Whereas the Respondent side stated that the Defendants only in respect of the property bearing SF.No:617/26 but under the guise of procuring the decree for the property bearing SF.No:172/3. It is therefore the Plaintiffs are trying to grab the property bearing SF.No:617/26. The Plaintiffs have not given proper details of the property. The Plaintiffs have file the document for some other property.
15. In the light of above aspect of grounds, whether the Petitioners/ Plaintiffs are in possession and enjoyment of the suit property or not? Whether the Defendants interfered the Plaintiffs possession and enjoyment of the suit property? Whether the Plaintiffs/Petitioners prepared to execute the document over the suit property which was obstructed by the Defendants/Respondents or not?

Whether the real dispute only between the Plaintiffs/ Petitioners and Defendants/Respondents are only regarding the property bearing SF.No:617/26 or not? Whether the Plaintiffs filed the proper documents in related to the suit property or not? Whether the Plaintiffs/Petitioners attempted to grab the property bearing SF.No:617/26 or not?

16.It is therefore the above issues are revealed only by way of trail proceedings and thereby adducing oral and documentary evidence on both sides. In the light of above observation and discussion and keeping in view the relief in the sought in this petition, this court is of the view no prima facie material of evidence exist in favour of the petitioner. Since the Plaintiff has been unable to make out prima facie case, there is no need to go into the question of balance of convenience and irreparable loss and injury(Kashimath Samsthan vs Shriman Sudhindrathirtha Swamy, Air 2010 SC 296). Given the above aspect of reasons, this petition stands dismissed and no cost.

17.As a result, this petition stands dismissed and no cost.

Dictated by me to the Typist, typed by typist, and corrected by me and pronounced this Orders in the Open Court, on this day of 12th day of April, 2024.

**District Munsif cum Judicial Magistrate,
Krishnarayapuram.**

Annexures

Petitioner's side Oral and Documentary Evidence: Nil

Respondent's side Oral and Documentary Evidence: Nil

**District Munsif Cum Judicial Magistrate
Krishnarayapuram**