



IN THE COURT OF THE SUBORDINATE JUDGE OF MELUR.

Present: Thiru. **S. GANESAN, B.Sc., M.A., B.L.,**

Subordinate Judge, Melur,

Tuesday, the 11th day of April 2023

O.S.No.252/2022

1.B.Kowsalya Rani

2.B.Jey Karthick singh

3.B.Ram kissan singh

4.B.Lakman Singh

.....

Plaintiffs

// Vs //

1.M.Gopal singh @ Ramgopal singh

2.M.Santhar Monsingh

.....

Defendants

This suit came up on 11.03.2023 for final hearing before me in the presence of Thiru.V.Nagendran, A.Rajamanickam, Thiru.Ganesh, Thiru.K.Thiraviam and Thiru.P.Palani, Advocates for the plaintiffs and Thiru.M.Kannan and Thiru.M.Ponnaiah, Advocates for the defendants. Written statement not filed. Defendants called absent, set exparte upon hearing the arguments of plaintiffs side and perusal of the connected records and having stood over for consideration till this day, the court delivered the following:

J U D G M E N T

The suit is filed for declaration of title by way of prescription and for consequential relief of permanent injunction.

1. The plaint averments are that :-

2. The suit properties and other properties are belonged to be

Late.Munisingh who was none other than the first plaintiff's father in law and 2 to 4 defendants grand father, as per the sale deed dated 05.12.1977. Thereby, he enjoyed the property in his separate possession and enjoyment. Thereafter, the Late.Munisingh executed a gift deed on 07.08.2012 as per the document No.4280/2012 to the 5 male legal heirs. In which, the E-schedule property cited in it is the rice mill and the related properties allotted to the plaintiff's husband Bhagavan singh. He enjoyed the property in his separate possession and enjoyment by mutating all the revenue municipal records in his name. On 07.02.2021, he passed away leaving behind the plaintiffs as legal heirs. Thereby, the property in Melur Town survey register ward-C block-8 was stood in the name of Bhagavansingh. Since Bhagavansingh worked at the age of 20 in the rice mill along with Munisingh by managing the same, the rice and other properties are gifted to the Bhagavansingh. Thereby, the adjacent portion near by the rice mill is used for the loading and un loading of paddy bags, bullock carts, and cycle, pushing vehicles for the purpose of transporting to the rice mill. Further, the southern portion was used as a pathway right from the usage of Bhagavansingh's father. Thereby, from 2012 settlement deed the Bhagavansingh is enjoyed the property more than the statutory period. Thereby Bhagavansingh has got prescriptive title over the property. Thereby, he paid all the revenue, professional and municipal taxes and also electricity bill to the rice mill. After the death of Bhagavansingh, the plaintiffs are enjoying the property. The 1st plaintiff only running the rice mill and south of the suit property, there is 22 ft breadth vacant site and nearby by running 10 ft breadth common pathway and to that next houses are there. In May 2022, the defendants without giving intimation to the plaintiffs trying to survey the 1st defendant's property which is situated on the south of the suit property. Thereby, the plaintiff has made complaint before the Melur P.S and they enquired the parties and advised to survey the property after giving notice to the both parties. But the defendants without adhering to the advise came with bulldozer along with men when the 1st plaintiff went out of the town on 23.07.2022

damaged the southern side compound wall pillar and stone post and trying to encroach the suit property. Due to which, the plaintiffs suffered loss to the tune of Rs.25,000/- worth stone and wire fencing. Thereby, the 1st plaintiff again made complaint before Melur Police station, the same was not proceeded so far. Thereby on 27.07.2022 the 1st plaintiff sent complaint to the Superintendent of police Madurai took take action. The same was received on 29.07.2022. Hence, the defendants are trying to encroach the property at any time. Hence, the suit is filed.

3. Though the defendants are appeared before court through counsels and they without filing written statement become exparte. Thereby, judgment pronounced U/O.8 R10 of CPC on merits.

4. Heard, plaintiff side arguments. Perused the records. The following issue is framed.

5. Issue

Whether the plaintiffs are entitled for the reliefs sought for?

6. The 1st plaintiff examined as PW1, Ex.A1 to A18 marked. No Witnesses and documents adduced on the side of the defendant.

7. The Ex.A1 is the rough sketch. Ex.A2 is the settlement deed executed by the Munisingh dated 07.08.2012. Ex.A3 is the commercial tax payment for the rice mill. Ex.A4 is the death certificate of Bhagavansingh dated 07.02.2021. Ex.A5 is the legal certificate of the Bhagavansingh dated 15.05.2021. Ex.A6 is the town survey field register. Ex.A7 is the electricity consumption card 2 Nos 2008 to 2018. Ex.A8 is electricity bill payment receipt 2007 to 2022. Ex.A9 is the property tax receipt 2010 to 2022. Ex.A10 is the professional tax receipt dated 2006 to 2022. Ex.A11 is the complaint before the Melur police station by the 1st plaintiff dated 22.05.2022. Ex.A12 and A13 are the photo showing the damage passed to the stone and wire fencing and the receipt of photo studio. Ex.A14 is the complaint before the

Superintendent of Police, Madurai by the 1st plaintiff dated 23.07.2022. Ex.A15 is the another complaint before the Melur police station by the 1st plaintiff dated 23.07.2022. Ex.A16 is the acknowledgment card. Ex.A17 and A18 photo showing rice mill and the property along with C.D. dated 04.11.2018.

8. As per the Ex.A2, the E-Schedule is belonged to the Bhagavansingh as per settlement deed. The recital of the settlement deed discloses that on 05.12.1977 through testament by the Munisingh. Thereby it is self acquired property of Munisingh. It was properly sub divided by him and E-schedule property is gifted to the Bhagavansingh as per registered gift deed. Thereby, the property categorically whose that it is belonged to the Bhagavansingh and as per Ex.A4 he passed away and as per Ex.A5 the plaintiffs are the legal heirs. The property was assessed to municipal, electricity and commercial taxes in the name of Bhagavansingh.

9. Hence, the plaintiffs are the legal heirs of the suit property and got title over the same. Because Bhagavansingh enjoyed the property more than 20 years. Thereby, more than the statutory period the plaintiffs are in legal possession and enjoyment of the suit property.

10. Hence, as per sec-34 of the specific relief act, the plaintiffs are entitled to declaration as prayed for.

11. The defendants on 23.07.2022 attempted to encroach into the suit property and the southern side as shown in the rough sketch. Thereby, damaged the southern portion of the suit property. Which is revealed and evidenced through Ex.A12 and A13. Further the alleged cause of action has been revealed and proved through the complaint given by the 1st plaintiff as per the Ex.A11, A14 and A15. Thereby, the plaintiff has made out a prima facie case and balance of convenience in their favour. If the plaintiffs has not been granted with permanent injunction based upon the primary relief of declaration, the plaintiffs will be put into heavy and irreparable loss and hardship than that of the defendant. Therefore, the comparative

mischief in not granting the relief of permanent injunction will definitely prejudice the plaintiffs. Therefore, the plaintiffs are entitled to the protect their possession and enjoyment of the suit property. Therefore, the plaintiffs are entitled to the relief permanent injunction restraining the defendants and their men and anyway interfering or trespassing with the plaintiffs peaceful possession and enjoyment of the suit property. Accordingly, the point is answered.

In the result, the suit is hereby decreed with costs as prayed for.

Directly dictated to the Typist, and typed by her in office computer, corrected and pronounced by me, this the 11th day of April 2023.

Sd/-S.Ganesan
Sub Judge,
Melur.

List of Witnesses examined on the side of the Plaintiff:-

P.W.1. - B.Kowsalya rani - Plaintiff

List of documents marked on the side of the plaintiff:

Ex.A.1	-	Rough sketch	Original
Ex.A.2	07.08.2012	settlement deed executed by the Munisingh	Certified copy
Ex.A.3	-	The commercial tax payment for the rice mill.	Original
Ex.A.4	07.02.2021	Death certificate of Bhagavansingh	Computerized copy
Ex.A.5	15.05.2021	Legal heir certificate of Bhagavansingh	Computerized copy
Ex.A.6	-	The town survey field register	Original
Ex.A.7	2008-2018	The electricity consumption card 2 Nos.	Original
Ex.A.8	2007-2022	The electricity bill payment receipt 27 Nos.	Original
Ex.A.9	2010-2022	Property tax receipt	Original
Ex.A.10	2006-2022	The professional tax receipt 6Nos.	Original
Ex.A.11	22.05.2022	The complaint before the Melur	Original

- Ex.A.12 - police station by the 1st plaintiff
 & The photo showing the damage Original
 Ex.A.13 passed to the stone and wire fencing,
 The receipt of photo studio
 Ex.A.14 23.07.2022 The complaint before the Xerox copy
 Superintendent of Police, Madurai by
 the 1st plaintiff
 Ex.A.15 23.07.2022 The complaint before the Melur Original
 police station by the 1st plaintiff
 Ex.A.16 - Acknowledgment card Original
 Ex.A.17 04.11.2018 The photo showing rice mill and the Original
 & property along with C.D.
 Ex.A.18

List of witnesses and documents on the side of the defendants - Nil

Sd/-S.Ganesan
 Sub Judge,
 Melur.

**Draft/Fair Judgment
 O.S.No.252/2022
 Date: 11.04.2023
 SJ, Melur.**