

IN THE COURT OF THE DISTRICT MUNSIF AT UDHAGAMANDALAM

**PRESENT: THIRU. A.MOHANA KRISHNAN, B.A., B.L.,
DISTRICT MUNSIF, UDHAGAMANDALAM.**

WEDNESDAY, THE 17TH DAY OF AUGUST 2022

O.S.No. 74/2020

E. Mahalingam ... Plaintiff

/Vs/

1.Mr.Anthony
2.Mr.Sarathkumar ... Defendants

This suit came on the 22nd day of July 2022 for final hearing before me in the presence of Thiru.B.S.Sivakumar, Advocate for the plaintiff, and the defendants having been set exparte and having stood over till this day for consideration, this court delivered the following:

J U D G M E N T

Suit for restraining the defendant his men, agents, or any other persons claiming for the defendant from trespassing and interfering with the peaceful possession and enjoyment of the suit schedule property by an order of permanent injunction and for cost of suit.

1. The brief of the plaint as follows :

The suit schedule property was purchased by the plaintiff from Mr.K.Lakshmanan under registered document No.89 of 1989 dated 08.02.1989 registered in the office of the Sub-Registrar, Ootacamund, ever since from the date of

purchase the plaintiff is in absolute possession and enjoyment. The plaintiff is plucking tea leaves from the suit property ever since from the date of purchase without any disturbance or hindrance, but in the 1st week of August 2020 the defendants tried to take forcible possession of the property by claiming they are the owner of the suit property.

The defendants did not listen to the plaintiff and threatened the plaintiff that they will not allow the plaintiff to pluck tea leaves and to maintain the tea garden in the suit property, the defendants have men and money power and he has no regard for law and may go to an extent of taking forcible possession of the schedule mentioned property. The defendants should be restrained from indulging in all sorts of illegal activities from trespassing and interfering peaceful possession and enjoyment of the plaintiff in respect of the schedule mentioned property by an order of permanent injunction.

The threat of the defendants are continuing. Unless the defendants are restrained from disturbing the Plaintiff's possession and peaceful enjoyment of the suit schedule properties by an order of permanent injunction, the plaintiff's rights will get jeopardized and the plaintiff will not be in a position to maintain the tea garden peacefully. The balance of convenience is in favour of the plaintiff and there is a prima facie case.

The Plaintiff further submits that there is a disturbance by the defendants to the suit schedule property. Often the defendants tried to trespass into the schedule

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mentioned property and tried to take forcible possession of the suit property of the plaintiff, hence the suit for permanent injunction.

3. This suit was taken on file on 14.08.2020. Summons were served to the defendants through court, Advocate Thiru.D.Jayaraman filed Vakalat for both the defendants and defendants failed to file the written statement even after several opportunities hence, they were called absent and set *ex parte* on 26.04.2022.

4. In this case the point for consideration is that whether the plaintiff has proved his case and entitled to get the relief as prayed for by him.

5. On 06.07.2022 the plaintiff was examined as PW1 and Ex.A1 is marked. Original sale deed dated 08.02.1989 executed by one K.Lakshmanan to the plaintiff has been marked as Ex.A.1.

6. Heard the counsel for plaintiff and carefully perused the document filed on the side of the plaintiff. The learned counsel for the plaintiff argued that the suit schedule property was purchased by the plaintiff from K.Lakshmanan vide registered sale deed dated 08.02.1989 and ever since the date of purchase the plaintiff is in absolute possession and enjoyment. The learned counsel further argued that the plaintiff is plucking tea leaves from suit property, but in the 1st week of August 2020 the defendants tried to take forcible possession of the property by claiming they are

the owner of the suit property. Hence, the illegal activities of the defendants from trespassing into the suit schedule property should be restrained.

7. This court finds that at this juncture, it is the duty of this court to find out who is in possession of the suit schedule property. It is settled principle that injunction can be granted only when the plaintiff proves his possession in the suit schedule property till the date of filing of the suit. On perusal of Ex.A.1 which is the original sale deed dated 08.02.1989 it can be ascertain by this court the plaintiff has purchased the suit schedule property from one K.Lakshmanan. Further, to prove the possession the plaintiff has not produced any other document. It can be ascertain by this court that the suit schedule property is an agricultural land where tea plantations are done. Hence, this court finds that the plaintiff has established by way of Ex.A.1 that he purchased the property one K.Lakshmanan hence, the principle that possession follows title can be applied in this case and this court finds that the plaintiff is in possession of the suit schedule property.

8. As already discussed by this court in the above paragraph it is found by this court that the plaintiff has proved his possession in the suit schedule property. Now, it is pertinent for this court to ascertain whether the defendants interfere with the peaceful possession of the plaintiff. The plaintiff has pleaded that in the 1st week of August 2020 the defendants try to take forceful possession of the property by

claiming they are the owners of suit property and to prove that fact, the plaintiff has deposed the above facts in his examination. But, on the other hand the defendants have failed to file the written statement even after sufficient opportunities given. Hence, this court finds that the plaintiff has prove the interference of the defendants. It can be seem that the defendants are trying to disturb the peaceful possession of the plaintiff, hence the plaintiff is entitled to permanent injunction as prayed for.

9. Therefore, on considering the oral and documentary evidence placed by the plaintiff, the court is of the opinion that the plaintiff has clearly proved his case as pleaded in the plaint.

10. In the result, the suit is decreed and the permanent injunction is granted restraining the defendants his men, agents, or any other persons claiming for the defendants from trespassing and interfering with the peaceful possession of the plaintiff within the suit schedule property and no cost.

Dictated by me to the shorthand writer, transcribed and typed by her, corrected and pronounced by me in open court on this the 17th day of August, 2022.

Sd/-A.Mohana Krishnan
District Munsif,
Udhagamandalam

LIST OF WITNESSES EXAMINED

Plaintiff's side:

PW1 : Mahalingam

Defendant's side: -Nil-

LIST OF EXHIBITS MARKED.

Plaintiff's side:

Ex.A.1 Original sale deed dated 08.02.1989 executed by one K.Lakshmanan to the plaintiff

Defendant's side: -Nil-

**Sd/-A.Mohana Krishnan
District Munsif,
Udhagamandalam**