

IN THE COURT OF DISTRICT MUNSIF, GUDIYATTAM, VELLORE DISTRICT.

**Present : Thiru.M.N.Rajanandhivarmasiva, B.E., L.L.B.,
District Munsif, Gudiyattam.**

Tuesday, the 10th day of October 2023

IA.3/2022 in OS.19/2022

CNR.No.TNVL10-000006 – 2022

1. Mrs.Savithiri.
2. Mrs.Rajeshwari.
3. Mrs.Mohana.
4. Mr.Venkatesan.

...Plaintiffs.

// Versus //

1. Mr.Perumal.
2. Mr.Kotteeswaran.
3. Mr.Nicolas alias Tamizharasan.
4. Mr.Ponmani.
5. Mr.Gubendhiran.
6. Mr.Sivamoorthy.
7. Mr.Nagendran.
8. Mrs.Christa.
9. Mr.Jones.

...Defendants.

This petition came up on 10.10.2023 before me for final hearing in the presence of **Thiru.S.E.Vankataraman**, Advocate for Plaintiffs **Thiru.K.Rajini, B.A., B.L.**, Advocate for the Defendants upon hearing both sides and having stood over for consideration, this court delivered the following

Order

Petition filed Under Order 39 Rule 1 and 2 and Section 151 of CPC to grant ad-interim injunction restraining the Defendants, their men, servants and agents from initiating further illegal constructions in the “A” schedule of property and pass further anyother orders and thus render justice.

1. Brief Averments of the Petition : -

(Petition filed by the 4th plaintiff the other plaintiffs adopted the same)

1.1. Petitioner is the 4th plaintiff in the suit. The above defendants are stranger to “A” schedule of property and 1st to 6th defendants attempt to encroach plaintiffs property mentioned in “A” suit schedule of property in many occasion and same is evaded by himself and other plaintiffs with the help of neighbour Villagers and finally on 10.11.2021 when the petitioner and other plaintiffs were not in station 1st to 6th defendants succeed in his attempt with help of rowdy elements encroached “A, B, C” suit schedule of properties by east to west 20 feet south to north by 10 feet by put up concrete basement.

1.2. The 7th defendant encroached “A” schedule of property by extending his house west to east 30 feet and north to south 13 feet by put up metal roofing sheet shed which is described as “D” schedule of property.

1.3. The 8th and 9th defendants encroached “A” schedule of property by west to east 13 feet and north to south 30 feet by extending their house construction which is described as “E” schedule property.

1.4. The 2nd petitioner/plaintiff given representation to Tahsildar, Pernambut to survey “A” schedule of property and orally, instructed himself and other petitioners. On 23.12.2021 the 1st defendant issued legal notice to 3rd petitioner/plaintiff stating that Respondent/1st defendant is absolute owner of property comprised in Survey No.679/A to an extent of 2 cents and on the same 3rd petitioner/plaintiff not to disturb the peaceful possession of the defendant. The 1st defendant suppressed the real facts that he only encroached “A” suit schedule of property and at any manner himself and other petitioners/plaintiffs never disturb defendants possession.

1.5. The 4th petitioner/plaintiff lodged complaint against defendants. The Police

Officials enquired both plaintiffs and defendants and advised plaintiffs to approach appropriate Civil Court. The defendants are stranger to the suit schedule of property and defendants attempt to interfere into himself peaceful possession and succeed his attempt. Hence, petitioners obliged to file this petition to grant ad-interim injuncion restraining the Defendants, their men, servants and agents from initiating further illegal constructions in the “A” schedule of property.

2. Brief Averments of the Counter :-

(Counter filed by the 4th defendant the other defendants adopted the same)

2.1. The defendants never encroached any property as stated by the plaintiff in their plaint and the 1st defendant was father of the defendants 2 to 6 and many years back they are lived together in the Survey No.697/A and 679/A/1 within their respective extents. Survey No.679/A is belongs to the 1st defendant by way of registered sale deed on 10.12.1969 vide Doc.No.3904/1969 since then the 1st defendant possessed and enjoyed till now and Survey No.679A/1 is belongs to the one Pushparani W/o Perumal vide Patta No.3961 who was wife of the 1st defendant and mother of the defendant No.2 to 6.

2.2.The 7th defendant also living in Survey No.672/2A from born, which is belongs to the 7th defendant's wife Vasanthi by way of Patta No.15. The defendants 8 and 9 also live in the Survey No.672/2A of the Plot No.18 which is belongs to the 8th defendant's Husband Inbanathan and the 9th defendant father Inbanathan by way of Patta No.H.S.52/1405. The plaintiff never stated about the extents of the East to West and North to South of the suit “A” schedule property. The 3rd plaintiff was working as VAO and she influencing the Government Officials and records and she trying to

encroach the 1st defendant and his wife property. Hence, finally the 1st defendant send an legal notice on 23.12.2021. The defendants are all never encroached the any one property, they are all lived respectively with their own property with the valid proper document. The defendants are all never build new concrete as stated by the plaintiffs on 10.11.2021 and further the defendants renovated the already existing building and which is more than 50 years old residential house. The plaintiffs are all have an malafide intention and 3rd plaintiff influence the Government official and records with his power and may way they trying to grab the defendants property and the plaintiff thought was dominating the defendants entire Village. The plaintiff cannot mentioned about the encroachment of period of the defendants and further the plaintiff under Valued the suit. Even at the time of measuring the property by Advocate-Commissioner also the suit property was not properly identified. Therefore, pleased to dismiss the petition.

On the side of Petitioners Ex.P1 to Ex.P.15 were marked. No documents have been marked on the side of the Respondents.

III. Point for Considerations: -

1. Whether the petition is to be allowed or not?

Heard both sides and records perused

3.1. Petitioner contended that the petitioner is the 4th plaintiff in the suit. the petitioner and other plaintiffs were not in station 1st to 6th defendants succeed in his attempt with help of rowdy elements encroached “A, B, C” suit schedule of properties by east to west 20 feet south to north by 10 feet by put up concrete basement. The 7th defendant encroached “A” schedule of property by extending his

house west to east 30 feet and north to south 13 feet by put up metal roofing sheet shed which is described as “D” schedule of property. The 8th and 9th defendants encroached “A” schedule of property by west to east 13 feet and north to south 30 feet by extending their house construction which is described as “E” schedule property. Respondent/1st defendant is absolute owner of property comprised in Survey No.679/A to an extent of 2 cents and on the same 3rd petitioner/plaintiff not to disturb the peaceful possession of the defendant. The 1st defendant suppressed the real facts that he only encroached “A” suit schedule of property and at any manner himself and other petitioners/plaintiffs never disturb defendants possession.

3.2. Respondent contended that the 3rd plaintiff was working as VAO and she influencing the Government Officials and records and she trying to encroach the 1st defendant and his wife property. On 23.12.2021 the 1st defendant send an legal notice. The defendants are all never encroached the any one property, they are all lived respectively with their own property with the valid proper document. The defendants are all never build new concrete as stated by the plaintiffs on 10.11.2021 and further the defendants renovated the already existing building and which is more than 50 years old residential house. The plaintiffs are all have an malafide intention and 3rd plaintiff influence the Government official and records with his power and may way they trying to grab the defendants property and the plaintiff thought was dominating the defendants entire Village. Therefore, dismiss the petition.

3.3. On perusal of records it seems that there is title dispute in regard to the suit property. Hence, these issues can be decided at the time of trial. It cannot be decided in this application. Hence, in view of the above and present suit is ripe for trial.

Therefore, for the above mentioned reasons this petition is dismissed.

In the result this petition is dismissed Considering the fact and circumstances of this petition, there is no order as to cost.

Directly Dictated to Steno typist, typed by her corrected and pronounced by me in the open Court on this the 10th day of October 2023.

**Sd/- M.N.Rajanandhivarmasiva,
District Munsif,
Gudiyattam.**

Petitioners side Witnesses :- Nil

Petitioners side Exhibits :-

1. Ex.P.1 Original Death Certificate of Plaintiff's father Late.Munisamy issued by the Deputy Tahsildar, Gudiyattam.
2. Ex.P.2 Original Legal heir Certificate of Plaintiff's father Late.Munisamy
3. Ex.P.3 Original Death Certificate of Plaintiff's elder sister Late.Murugammal.
4. Ex.P.4 Original Death Certificate of Plaintiff's mother Late.Rajammal.
5. Ex.P.5 Patta in Patta No.691 stands in the name of Plaintiff's Father Late.Munisamy.
6. Ex. P.6 Original Death Certificate of Plaintiff's brother Late.Velu.
7. Ex. P.7 Adangal stands in the name Plaintiff's father.
8. Ex. P.8 Xerox Copy of the Representation to Tahsildar, Pernambut.
9. Ex. P.9 Fees to Survey in E-Challan receipt for Rs.800/-.
10. Ex. P.10 Legal Notice with Postal Cover sent by 2nd Defendant to 3rd Plaintiff's Mohana.
11. Ex. P.11 CSR No.463/21 with complaint.
12. Ex. P.12 Encumbrance Certificate for a Suit schedule of property.
13. Ex. P.13 Photos with receipt.
14. Ex. P.14 Certified Copy of FMB Sketch.

15. Ex. P.15 Original Guideline Value of the Property issued by the
Sub - Register, Pernambut.

Respondents side Witnesses and Exhibits :- Nil.

Sd/- M.N.Rajanandhivarmasiva,
District Munsif,
Gudiyattam.