

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF, MANAPPARAI

**Present: Tmt.K.M.Kalaiaarasi, M.L.,
Principal District Munsif, Manapparai
Monday, 8th day of July, 2019**

O.S.No.1/2018

1. Rengasamy
2. Ponramar

.....Plaintiffs

-Versus-

Chinnasamy

.....Defendant

This suit came up for final hearing and have been heard in the presence of Mr.P.Arumugam, Advocate for the plaintiffs, Mr.M.Rajendran, Advocate for the defendant, and having perused the entire records and evidence and this case having stood over for my consideration till this day, this court delivered the following

JUDGMENT

This suit was filed by the plaintiff under Order 7 Rule 1 for the relief of Declaration to declare that the plaintiff has right and title over suit property and for the consequential relief of Permanent Injunction restraining defendants, their men, relatives, agents, servants or any person claiming through them from interfering with plaintiff possession and enjoyment over suit property in any manner whatsoever.

1) Brief facts in the Plaint as follows

The suit property is the Natham Poramboke land and belonged to the plaintiffs. The plaintiffs residing in the house in suit property which have two door ways for the past 30 years. During natham Survey the suit property was mistakenly classified as vacant land irrespective of possession of plaintiffs. The plaintiffs thence applied for patta for the suit property before revenue authorities. The defendant's property situated adjacent to the suit property and he is no way related to the suit property. The defendant demanded to purchase the suit property which was denied by the plaintiffs.

As a result, defendant tried to encroach upon the suit property on 20.12.2014, which was resisted by the plaintiff with great difficulty. The defendant afterwards also not restrain from interference in pursuant to suit property after he was insisted by the panchayat on 26.12.2017 convened at the instance of plaintiff. Thus, the plaintiff is constrained to file this suit for the relief of declaration and consequential relief of Permanent Injunction and seek for decree the suit.

2) Brief of averments in Written statement filed by defendant:-

The defendants denied all the allegations in the plaint except those which are specifically admitted here in. The defendant contended that the plaintiff has never been in possession and enjoyment of suit property and claimed that he alone in possession of suit property which is situated adjacent to his house. The plaintiffs houses are situated some $\frac{1}{2}$ Km away from the suit property and they are resided there only. The plaintiffs filed this suit with the intention to grab the suit property which is in enjoyment of defendant. The plaintiffs are not related to the suit property. Thus, for the above cited reasons, the defendants sought for dismissal of the suit with costs.

3.Issues:-

Upon consideration of the plaint, written statement and the documents filed along with the pleadings, this court formulated the following issues,

1. Whether plaintiff residing $\frac{1}{2}$ Km away from the suit property as claimed by the defendant?
2. Whether plaintiffs have right and title over the suit property?
3. Whether plaintiffs entitled to the relief of declaration and consequential relief of Permanent Injunction as claimed by them?
4. To what other reliefs?

4.Trial:-

The plaintiff was called upon to commence the trial, 1st plaintiff was examined as PW1, Proof affidavit filed in lieu of chief examination, Ex.A.1 to Ex.A.4 were marked on the side of plaintiff. 2nd plaintiff was examined as PW2. Sangeetha, VAO of Thoppampatti village examined as PW3. Ex.X.1 marked through the deposition of PW3.

After the plaintiff side evidence was closed, defendant examined as DW1, Proof Affidavit filed in lieu of chief examination, Ponnusamy examined as DW2. No documents were marked on the side of defendant.

5. Arguments advanced by the counsels:-

The Learned plaintiff counsel argued that the suit property belonged to the plaintiff and they were in possession and enjoyment of the suit property. The defendant interfered the possession of the plaintiff. The plaintiff by examined PW1 to PW3 and by marking Ex.A1 to Ex.A.4 has proved their case. Therefore, the plaintiffs are entitled to the relief as claimed by them.

The learned defendant's counsel argued that the plaintiffs are not related to the suit property and they are not in possession of the suit property. The defendant alone enjoying the suit property. The defendant proved his defendant by examined DW1, DW2. Thus the plaintiffs are not entitled to the relief as claimed by them and this suit should be subject to dismissed with costs.

6. Answer to Issue Nos.1 to 3:-

The issue Nos.1 to 3 are interlinked with each other, thus for the sake of brevity and convenience both the issues are answered jointly and simultaneously.

i) The suit property is the natham poramboke and there is no dispute with regard to that. The plaintiffs claimed that they were residing in the house situated on the suit property which have two ways. The contention of plaintiff is resisted by the

defendant by stating that the plaintiffs were never been in possession of the suit property and they are residing some ½ Km. away from suit property. The defendant further claim that he alone in possession of the suit property.

ii) Regarding possession of suit property the plaintiffs have produced and marked the house tax receipts as Ex.A.1 and Ex.A.2. Nonetheless plaintiffs produced house tax receipts, they were not established the above mentioned receipts were related to the suit property with convincing material evidence. The plaintiffs also filed the petition to Tahsildar, Manapparai applying patta for suit property as Ex.A.3 and Ex.A.4. Those documents were not sufficient to decide the possession of the plaintiffs over suit property.

iii) The plaintiffs have during their cross examination as PW1, PW2 admitted that they have house ½ Km. away from suit property. The plaintiffs have not stated anything about residing in the house situated at suit property as claimed by them. The plaintiffs have examined VAO of Thoppampatti Village as PW3. The PW3 in her deposition stated that no body resided in the house in suit property. The plaintiffs not even proved the house in suit property and they were residing through inspection of suit property by Advocate commissioner.

iv) The suit property consists of 13 ½ cents, as such the government issue natham patta to individual to an extend of 2-3 cents. The plaintiffs have not stated on what basis they claim right over whole 13 ½ cents. The plaintiffs have not proved their title over the suit property with convincing documents and failed to prove their possession over the suit property.

v) In the light of above discussion, this court comes to the conclusion that, since the plaintiffs themselves admitted that they have houses ½ Km. away from suit property

and not proved their title, possession and enjoyment of suit property, this court comes to the conclusion that the plaintiffs are not entitled to the relief of Declaration and Permanent Injunction as claimed by them. The issue nos. 1 to 3 answered in negative to the plaintiffs accordingly.

7. Answer to issue no. 4:

As per the discussion and result arrived in the issue Nos.1 to 3 this court comes to the conclusion that the plaintiff is not entitled to any other relief and answered this issue accordingly. This court on considering the nature of claim and the conduct of parties, ordered both parties to bear their own costs.

In result, this suit is dismissed without costs.

This judgment is directly typed by me in my official laptop, corrected and pronounced by me in the open court on this 8th day of July, 2019.

**PRINCIPAL DISTRICT MUNSIF,
MANAPPARAI.**

Annexure:-

Plaintiff side witness:

PW1 - Rengasamy (1st Plaintiff)
PW2 – Ponramar (2nd plaintiff)
PW3 – Sangeetha, VAO, Thoppampatti Village

Plaintiff side documents:

Ex.A1 – House tax receipts
Ex.A2 – House Tax receipts
Ex.A3 – Petition to Tahsildar, Manapparai
Ex.A4 – Petition to Tahsildar, Manapparai

Defendant side witness:

DW1 - Chinnasamy

DW2 - Ponnusamy

No defendant side Documents:

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