

IN THE COURT OF THE JUNIOR CIVIL JUDGE AT CHENNUR

PRESENT:- SRI M. SAI KUMAR,
JUNIOR CIVIL JUDGE,
CHENNUR

Friday, this the 18th day of October, 2019

O.S.No.1 of 2015

Between:

Mangilal Bajaj S/o Rajaram Bajaj, age 79 years,
Occ:Business R/o H.No.11-130, Chennur.

...Plaintiff

And

Madasu Madhuker S/o Ankaiah, age 40 years,
Occ: City Cable Business, R/o Near JBS school,
Chennur.

... Defendant

This suit is coming on this day before me on **15-10-2019** for hearing in the presence of **Sri P.Mallesham, Advocate** for the Plaintiff and the **Sri A.Rambhao, Advocate** for the defendant and after having heard and having stood over for consideration, this court made the following:-

J U D G M E N T

1. This is a suit filed by the plaintiff seeking relief of perpetual injunction restraining the defendant, his agent, relatives and farm servants from interfering into the peaceful possession and enjoyment of the plaintiff over the land in Sy.No.972 ad-measuring Ac.1-36 gts situated at Chennur, fully described in the schedule of property (hereinafter called as suit land).

2. The brief facts of the plaint in nutshell are that, the plaintiff is the owner, pattedar and possessor of suit land. The defendant is not having any right what so ever over the suit land tried to interfere with the possession of plaintiff illegally and also threatened with dire consequences with an intend to evict forcibly from the suit land. The defendant in furtherance of his ill intention, came on suit land on 30.12.2014, illegally tried to trespass and forcibly tried to erect fencing wire around the suit land, thereby tried to evict the plaintiff, but the illegal acts of defendant was resisted by the plaintiff with great difficulty, hence approached the court by filing the present suit.

3. On the other hand, defendant filed written statement denying the entire contents of the plaint in toto including the ownership and possession of plaintiff over the suit land. Further, the defendant submitted new facts that he is the president of registered community society of Munnuru Kapu. On behalf of said society, all the members of the society has been represented to the competent authority of local Government i.e. Gram Panchayath to allot some place of land to their society for the purpose of construction of community hall. On the basis of repeated representations, the competent authority of local bodies have allotted Ac.0-15 gts of land to their society and also other communities, such as Mudiraj Community, CPI party, Panchamuka Hanuman temple Massen tapi mestry society etc. The local authority i.e. Gram Panchayath has also given physical possession of the land of Ac.0-15 gts near Panchamuka Hanuman temple of Kummari Kunta tank, as the said land is grama kanta land etc on 19.02.2010. Immediately, the society of defendant i.e. Munnuru Kapu community society has taken possession and dig the bore well. Since then the defendant society are in possession without any interruption from anybody including the plaintiff. The boundaries of the land allotted to defendant community society of Grama kanta land is follows: East- Chennur to Katharashala GP road, West- Chennur to Asnad road, South – Government land, North – Sudhakar Reddy and Hemanth Reddy land. Thus the defendant contended that the suit of the plaintiff is not maintainable, as such no cause of action is arose, as a consequence the same is liable to be dismissed.

4. Basing on the above rival contentions of both sides, the following issues are framed for trial:

1. Whether the plaintiff is in lawful possession till filing of the suit?

2. Whether the plaintiff is entitled for perpetual injunction as prayed for?

3. To what relief?

5. At trial, plaintiff himself examined as Pw1 and got marked Exs.A1 to A4. plaintiff's son was examined as PW2 and his acquaintant was examined as PW3 in support of plaintiff contention. The defendant examined as DW1 and got marked ExB1 to ExB8. The members of Munnuru Kapu society are examined as

DW2 to DW5 in support of defendant. As DW4 and DW5 did not come forward to face the cross examination, as such their evidence was eschewed by the court.

6. Heard both sides and perused the record.

7. **ISSUE Nos.1 to 3:** PW1 to PW3 reiterated the entire contents of plaint in his chief examination affidavit. In support of his contention, he relied on ExA1 to ExA4. PW1 contended that he is the pattedar of suit land, and he is in possession of the same. ExA1 to ExA4 reveals that plaintiff is in possession of the suit land. ExA2 is the relevant pahani for the year 2014 which clearly reveals that the plaintiff is in possession of suit land as on the date of filing the suit. ExA4 is the Form 1B ROR which also reflects the name of plaintiff as pattedar and possessor of the suit land. Thus from the oral evidence of PW1 coupled with documentary evidence of ExA1 to ExA4, the plaintiff could able to establish his prima facie possession over the suit land as on the date of filing the suit. During cross examination of PW1, the learned counsel for the defendant disputed how the plaintiff has succeeded the suit land. In the cross examination of PW1, PW1 deposed that he succeeded the suit land from his father who got the same from his father. That means the plaintiff succeeded the property from his forefather. Adding to it, PW1 also deposed that the suit land was purchased by his forefather. Admittedly no documentary proof is filed by the PW1 showing that his forefather purchased the suit land. It is also disputed by the defendant during the cross examination of PW1 that Exp1 does not bare the proceeding number through which the patta was issued in the name of plaintiff. Further ExA1 also does not reflect the katha number of the plaintiff land i.e. suit land. Though the learned counsel for the defendant cross examined disputing that the grandfather of plaintiff was not purchased the suit land, but the documentary proof filed by the plaintiff which categorically reflects that the plaintiff is the pattedar of the suit land. Further from ExA3 and ExA4, the plaintiff also established that he is in possession of the same. It is settled law that until and unless the presumption of genuineness of revenue entries were rebutted, the revenue entries are appears to be genuine. Admittedly, the defendant has not filed any documentary proof to show that the plaintiff has created the documents and the entries in the name of plaintiff under ExA1 to ExA4 are not genuine. As such the genuineness attached

to the revenue entries is not rebutted by the defendant by filing any cogent evidence.

8. In support of the contention of plaintiff, the plaintiff relied on the evidence of PW2 and PW3. Though PW2 and PW3 deposed supporting the version of PW1 saying that the plaintiff is in possession of suit land but they did not mention in their evidence that the exact date on which the defendant tried to interfere with the possession of plaintiff and threatened to evict the plaintiff from the suit land, as such the evidence of PW2 and PW3 is noway helpful to the plaintiff.

9. It is the case of the defendant by his evidence and pleadings that the Gram panchayath, Chennur allotted Ac.0-15 gts of land of gramakanta land in the year 2010 by way of resolution. Apart from that it is also case of the defendant that apart from the land allotted to Munnuru kapu sangam, the defendant and others were also allotted the land i.e. Mudiraj Community, CPI party, panchamuka Hanuman temple Massen Tapi mestri society but the defendant has not filed any documentary proof of allotment to others. DW1 in his evidence has categorically testified that he is the president of registered Munnuru kapu sangam. On the repeated requests of Munnuru kapu community people, the Gram panchayath, Chennur allotted Ac.0-15 gts of land on 19.02.2010 under ExB1. But on perusal of ExB3, it appears that the Munnuru kapu sangam was registered in the year 2016. When defendant is the president of Munnuru kapu sangam which was registered in the year 2016, the question of land allotment to the Munnuru kapu sangam by the Gram panchayath, Chennur in the year 2010 would not arise and if allotted would create suspicion over the case of the defendant.

10. It is vehemently argued by the learned counsel for the plaintiff that whether the Gram Panchayath is having authority to allot any land to any society. On the other hand, the learned counsel for the defendant contended that the Gram Panchayath is having authority to allot the land on the representations of any society for establishing their office or community hall. To answer the same, the relevant provisions were seen from A.P. Gram Panchayath Act, 1994 are perused. The relevant provisions are Sec.45 to 59, but on perusal of the said provisions

nowhere it was given authority to the Gram Panchayath to allot any land to any society or person for any purpose.

11. It is vehemently argued by the learned counsel for the plaintiff that if at all any land is to be allotted, the concern MRO or concern RDO or the concern District collector are the proper authority to allot any land to any purpose in a particular village. Admittedly the land allotted by the Gram Panchayath to Munnuru Kapu Sangam of the defendant was been ratified by any of the concerned revenue authorities, as such the allotment made by the Gram panchayath is appears to be illegal and without authority.

12. Further during cross examination of DW1, he has categorically admitted that he is noway concerned with the suit land in Sy.No.972. On perusal of ExB1, the resolution passed by the Gram Panchayath, Chennur dt: 19.02.2010 it does not reflecting any survey number. It is prudent that any land other than the forest land will have survey number allotted by the concerned revenue authorities. But the land which was allotted by the Gram panchayath, chennur to the defendant community society does not reflect any survey number in which the land was allotted. Further ExB1 also does not reflect the boundaries of the land which was allotted to defendant community society. When the land allotted under ExB1 to the defendant community society does not have any survey number and boundaries, as such it is difficult to say the exact location of the land which was allotted to the defendant. Adding to it, defendants community society has also not filed any panchanama from the concerned MRO showing in which survey number the land was allotted to them by the Gram panchayath, Chennur. DW2 and DW3, though deposed in consonance with the evidence of DW1, but as stated supra the proceedings of the allotment to Munnuru kapu sangam by the Gram panchayath Chennur is not ratified. DW2 and DW3 also admitted that the land allotting authority are the RDO, MRO or Collector but no such authority has allot the land to their community society. When no such authority was allot any such land to defendant community society, it is doubtful that the defendant community society is in possession of land allot to them by Gram panchayath, Chennur and if so the defendants or community society is in possession the same would be illegal possession.

13. It is the contention of the defendant that after taking possession he leveled the same and also digged bore well in the land allotted to his society. It support of his contention, he relied on ExB5 to ExB8. On perusal of ExB5 to ExB8, it does not reflect to whom it was addressed or given. As such in the absence of to whom it was addressed this court is not inclined to believe that it was issued to defendant community society.

14. It is the contention of the defendant that Munnuru kapu community society was registered after allotting the land to them. But on perusal of ExB3, the address of the society is the same to that of residential address of the defendant. Thus it appears that the Munnuru kapu community sangam registered address is the residential address of DW1, but not the land allotted to Munnuru kapu sangam by the Gram panchayath, Chennur. As such it appears that the defendant community society has not even functioning on the alleged allotted land.

15. As stated supra, when DW1 himself admitted in his evidence that he is noway concerned with the plaintiff's land i.e. suit land and basing on the oral evidence of PW1 coupled with documentary evidence of ExA1 to ExA4 and also the presumption of genuineness attached to revenue entries under ExA2 to ExA4 is not rebutted by the defendant with cogent evidence, this court holds that the plaintiff proved his case, accordingly all the issues are answered in favour of plaintiff.

In the result, the suit of the plaintiff is decreed with costs granting permanent injunction restraining the defendant, his agents, relatives and farm servants from interfering with the peaceful possession and enjoyment of the plaintiff over the suit land.

Dictated to the Steno, transcribed by her and after corrected, pronounced by me in the open Court on this the 18th day of October, 2019.

**Junior Civil Judge,
Chennur.**

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

PLAINTIFF:

Pw-1: Mqangilal B ajaj
Pw-2: Narayan Bajaj
PW-3: Syyed Jarrar Hussain

DEFENDANT:

DW-1: Madasu Madhu
DW-2: R. Venkata Krishna Vijayanand
DW-3: P.Purushotham
DW-4: B.Venkatesh
DW-5: N.Srinivas

PLAINTIFF DOCUMENTS:

Ex.A1 is the CC of Pattedar pass book.
Ex.A2 is the CC of Pahani for the Fasli 1424.
Ex.A3 is the CC of Pahani for the year 1999-2000.
Ex.A4 is the CC of Form-1B.

DEFENDANT DOCUMENTS:

Ex.B1 is the copy of resolution passed by Grampanchayat Chennur, dated 19.02.2010.
Ex.B2 is the office copy of letter addressed to MRO, Chennur, dated 02.03.2012.
Ex.B3 is the CC of registration certificate of Munnuru Kapu community.
Ex.B4 is the (5) photographs along with CD.
Ex.B5 is the cash memo, dated 10.10.2011 issued by Sri Laxmi Ganapathi Bore wells.
Ex.B6 is the receipt, dated 10.10.2011 issued by Chennur Engineering and Electrical.
Ex.B7 is the cash bill, dated 27.01.2012 issued by Pathechand Ram Narayan Lahoti.
Ex.B8 is the expenditure book.

**Junior Civil Judge,
Chennur.**