

IN THE COURT OF THE CIVIL JUDGE (JUNIOR DIVISION):: CHINTALAPUD

Present : C. Madhu Babu
Civil Judge(Junior Division), Chintalapudi
Saturday, this the 18th day of May, 2024.

O.S.No.102/2023

BETWEEN:

Thota Jagadeesh, S/o Late Durga Rao, age 27, Male , cultivation, R/o Nearest Door No.1-191, Ramalayam street, Tirumaladevipeta village, T.Narasapuram Mandal, Eluru District.

. . . Plaintiff

And

1. Pachipala Subba Rao, S/o Late Lingiah, age 59, Male, Cultivation, R/o Door No.1-191, Ramalayam street, Tirumaladevipeta village, T.Narasapuram mandal, Eluru District.

2. Pachipala Seetharamaiah, S/o Late Lingiah, age 57, Male, Cultivation, R/o Door No.1-191, Ramalayam street, Tirumaladevipeta village, T.Narasapuram mandal, Eluru District.

3. Pachipala Venkateswara Rao, S/o Late Lingiah, age 52, Male, Cultivation, R/o Door No.1-191, Ramalayam street, Tirumaladevipeta village, T.Narasapuram mandal, Eluru District.

4.Pachipala Nagamani, W/o Late Durga Rao, age 57, Female, Cultivation, R/o Door No.1-191, Ramalayam street, Tirumaladevipeta village, T.Narasapuram mandal, Eluru District.

. . . Defendants

This suit is coming on 1.4.2024 for final hearing before me in the presence of **Sri Sk.Umar Farooq, learned Counsel** for the plaintiff and the defendants 1 to 4 remained ex parte, and the matter having stood over for consideration till this day, this court delivered the following:

J U D G M E N T

01. This is a suit filed by the sole plaintiff against the defendants 1 to 4 for grant of permanent injunction in favour of plaintiff restraining the

defendants, their men, agents from ever interfering with the plaintiff's peaceful possession and enjoyment of plaint schedule property and for costs of the suit.

02. The Schedule of the suit is furnished hereunder:

Eluru District, previously it is in West Godavari District, Chintalapudi SRO, T.Narasapuram mandal, Tirumaladevipeta panchayat limits, in the village of Tirumaladevipeta an agriculture land an extent of Ac.0.70 cents in RS No.603/7 bounded by :

East Land of Nulakani Nagaraju

South Land of Yasoda Suresh

West Land of Thota Veeraswamy Naidu

North Land of Thota Nageswararao, Kalneedi Surayya

03. The defendants 1 to 4 made their appearance by engaging counsel. They did not choose to file the written statement of defence. Consequently, they are set ex parte for non filing of written statement. This court proceeded to receive ex parte evidence.

4. During the ex parte evidence, the plaintiff himself examined as PW1 and PW.2 and Exhibited Exs.A1 to A5 documents. The counsel for plaintiff reported no further evidence for plaintiff.

5. Heard the learned counsel for plaintiff. Perused the entire material on record.

6. Now the point for consideration is :

Whether the plaintiff is entitled to permanent injunction as prayed for ?

7. In a suit for permanent injunction, the plaintiff has to show his possession over the suit schedule property as on the date of filing of the suit. But the possession must be a lawful possession and having as semblance title. Furthermore, the plaintiff has to come to the court with clean hands. Now, it has to be seen from the record, whether the plaintiff has fulfilled above requirements.

8. The plaintiff filed his chief examination reiterating the averments in the plaint that the plaint schedule property was acquired by plaintiff under a registered partition deed vide document NO.5009/2011 of SRO, Chintalapudi among his sister and mother. In the said partition B Schedule of item no.1 fell to the share of plaintiff. Thereafter they have found boundaries are wrongly mentioned and they have corrected the wrong boundaries and executed a rectification deed dated 1892/2023 dated 24.02.2023. The government has recognized the title, possession of the plaintiff and issued pattadar pass book and title deed book. Since the date of partition the plaintiff has been in possession and enjoyment of the schedule property by personally cultivating the schedule property by raising crops. The defendants are the distant relatives of plaintiff and in view of domestic disputes between woman folk since long back developed eyesore against plaintiff. The defendants causing troubles to plaintiff when the plaintiff cultivating the schedule property. The defendants made threats against him and wanted to interfere with the peaceful possession and enjoyment of schedule property. The defendants openly proclaiming on the face of plaintiff that they would see how peacefully the plaintiff enjoys the plaint schedule property. The defendants are trying to occupy the plaint schedule property by hook or crook in future. The acts of the defendants are illegal nothing but highhanded acts. The defendants have financial and manual strength in the village and they are making proclamations in furtherance of their acts. The plaintiff is unable to restrain them as she has not having any manual strength. PW.2 is resident near the plaint schedule property, who deposed evidence reiterating the evidence of PW.1

9. In a suit for permanent injunction the plaintiff has to prove his lawful possession and enjoyment over the suit property as on the date of filing suit. The plaintiff in order to prove his title over the property relied upon Ex.A1/registered partition deed dated 13.9.2021 executed among his mother, sister and himself. Further the plaintiff placed reliance on Ex.A2 rectification deed dated 24.2.2023 vide document No.1892/2023 executed

among his mother, sister and himself. The plaintiff also relied upon Ex.A3 issued in the name of plaintiff in respect of schedule property. In order to prove the possession over the schedule property he has relied upon Ex.A4/certified copy of registered mortgage deed dated 26.07.2013 executed by father of plaintiff in favour of PACS, Mallukunta. The plaintiff also relies upon registered release deed dated 26.2.2018 executed by PACS Mallukunta in favour of father of plaintiff. The defendants 1 to 4 remained ex parte and they did not contest the matter. The plaintiff has shown his possession and enjoyment over the property by virtue of Exs.A4 and A5. As per Ex.A1 and A3 the plaintiff is the owner of the plaintiff schedule property and his name is mutated in the record of rights. Hence, there is a presumption in favour of the plaintiff that he is the owner of the suit schedule property. Hence, the plaintiff successfully proved the semblance of title over the suit schedule property. Ex.A4 and A5 clearly shows that the plaintiff is in possession over the suit schedule property since 2018 to 2023. The possession of the plaintiff spread over a longer period i.e., to say from 2018 to 2023. The plaintiff proved his possession and enjoyment over the schedule property by virtue of Ex.A4 and A5. The fundamental requirement for grant of permanent injunction is the possession over the property as on the date of filing of the suit. The said requirement is fulfilled by the plaintiffs in considerable of the view basing on the oral and documentary evidence let in by the plaintiff.

10. More over the possession of plaintiffs have lawful and settled possession. That apart the plaintiff has come to the court with clean hands as can be seen from the record. This court opines that any act dispossession would cause irreparable injury and risk of right of plaintiff possession. Moreover such threat or dispossession seems to be germane having regard to the facts of the case.

11. The defendants having received summons did not choose to appear before this court, which is nothing but admitting the suit relief

sought by the plaintiff. Hence, the evidence let in by the plaintiff shall be presumed to be true and correct.

12. This court comes across a decision reported by our **Hon'ble Apex court in Vidyadhar Vs. Manikrao and another reported in (1999) 3 SCC 573** wherein it was held that **"where a party to the suit does not appear in the witness box and states his own case on oath and does not offer himself to be cross examined by the other side, a presumption would arise that the case set up by him is not correct."** Admittedly, the suit relief remained unchallenged. As the defendants did not choose to appear and contest the matter. Hence, it is a deemed admission that the contention of the plaintiff is true and correct. Accordingly, the point is answered in favour of plaintiff.

13. **In the result**, the suit is decreed with costs in favour of plaintiff and against the defendants 1 to 4 granting permanent injunction restraining the defendants, their men, agents from ever interfering with the plaintiff's peaceful possession and enjoyment of plaint schedule property.

Typed to my dictation, corrected, digitally signed and pronounced by me in the open Court, this the 18th day of May, 2024

CIVIL JUDGE (JUNIOR DIVISION),
CHINTALAPUDI

APPENDIX OF EVIDENCE
(WITNESSES EXAMINED)

For the Plaintiff:

P.W.1 Thota Jagadeesh
P.W.2 Thota Satyanarayana

For the Defendant: None

EXHIBITS MARKED

For the Plaintiff:

Ex.A1	Registered partition deed dated 13.9.2021 vide document
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	No.509/2011 of SRO Chintalapudi executed among Thota Kumari, Manga Nagamani and T.Jagadeesh
Ex.A2	Rectification deed dated 24.2.2023 vide document No.1892/2023 of SRO Chintalapudi executed among Thota Kumaro, Manga Nagamani and T.Jagadeesh
Ex.A3	Title deed bood issued in the name of father of plaintiff in respect of the schedule property
Ex.A4	Certified copy of registered mortgage deed 26.7.2013 executed by father of plaintiff in favour of PACS Mallukunta
Ex.A5	Registered release deed executed by PACS Mallukunta in favour of father of plaintiff.

For the Defendant: Nil.

CJ(JD), CTP