

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

RSA.No. 458 of 2009 ()

**AGAINST THE JUDGMENT IN AS 36/1997 of SUB COURT, PAYYANNUR DATED
03.11.2004**

**AGAINST THE JUDGMENT IN OS 231/1994 of MUNSIFF COURT, PAYYANNUR DATED
28.02.1997**

APPELLANTS/RESPONDENTS/DEFENDANTS:

- 1. UDAYA SPORTS CLUB, PARAVANTHATTA ,
KOROM AMSOM, KOROM DESOM, REPRESENTED BY ITS
PRESIDENT.**
- 2. UDAYA SPORTS CLUB, PARAVANTHATTA ,
KOROM AMSOM, KOROM DESOM, REPRESENTED BY ITS
SECRETARY.**

**BY ADVS.SRI.MAHESH V RAMAKRISHNAN
SRI.S.SUJIN**

RESPONDENT/APPELLANT/PLAINTIFF:

**PALAKKEEL PREMANANDAN ,S/O.KALLYANI AMMA,
AGED 41 YEARS, RESIDING AT KUNHIMANGALAM AMSOM
AND DESOM, P.O.KUNHIMANGALAM, KANNUR DISTRICT.**

BY ADV. SRI.M.SASINDRAN

**THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION ON 26-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

P.B.SURESH KUMAR, J.

R.S.A. No.458 of 2009

Dated this the 26th day of November, 2015

JUDGMENT

The defendants in a suit for injunction are the appellants in this second appeal.

2. The case of the plaintiff is that the suit property which was obtained by him by virtue of Ext.A2 gift deed is in his possession and that the defendants are attempting to trespass into the same. The defendants contended that the suit property was surrendered by the predecessors of the plaintiff to the Government pursuant to the land ceiling proceedings initiated against them under the Kerala Land Reforms Act and that the plaintiff is therefore, not in possession of the suit property.

3. The trial court dismissed the suit. The plaintiff took up the matter in appeal. The appellate court, on a reappraisal of the evidence on record, reversed the decision of the trial court and decreed the suit. The defendants, who are aggrieved by the decision of the appellate court, have thus come up in this second appeal.

4. Heard the learned counsel for the appellants as also the learned counsel for the respondent.

5. The issue relating to possession of an immovable property is a pure question of fact. The appellate court, on an appraisal of the materials on record, found that the plaintiff has established possession over the suit property. The said decision of the appellate court cannot be impugned in a proceedings under Section 100 of the Code of Civil Procedure. Further, the defendants have not shown any semblance of right over the suit property. In the circumstances, I do not find any merit in the second appeal and the same is, accordingly, dismissed.

JV

SD/-
P.B.SURESH KUMAR,
JUDGE.