

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

RSA.No. 520 of 2014 ()

AGAINST THE JUDGMENT AND DECREE IN AS NO. 55/2009 of DISTRICT
COURT,PATHANAMTHITTA DATED 17-02-2012

AGAINST THE JUDGMENT AND DECREE IN OS NO. 379/2005 of MUNSIF
COURT,PATHANAMTHITTA DATED 20-12-2008

APPELLANT(S)/APPELLANT/PLAINTIFF:

RADHAMANI C.A. @ RADHA AGED 39 YEARS
D/O.AYYAPPAN, CHENKALLUMPURATHU EDAPURAYIL
KAIPUZHA MURI, KULANADA VILLAGE, KOZHENCHERRY TALUK.

BY ADVS.SRI.K.N.GOVINDANKUTTY MENON
SRI.V.B.PREMACHANDRAN
SRI.S.MADHAVAN NAIR

RESPONDENT(S)/RESPONDENT/DEFENDANT:

KUNJU PILLAI, AGED 49 YEARS
S/O.AYYAPPAN, CHENKALLUMPURATHU EDAPURAYIL
KAIPUZHA MURI, KULANADA VILLAGE, KOZHENCHERRY TALUK-689641.

BY ADV. SRI.S.A.SANTHOSH

THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION ON
21-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.HARIPRASAD, J.

R.S.A. No.520 of 2014

Dated this the 21st day of July, 2015

JUDGMENT

Appellant is the plaintiff in O.S.No.379 of 2005 on the file of the Court of Munsiff, Pathanamthitta. The suit was one for declaration of title, recovery of possession, fixation of boundary and injunction. Case of the plaintiff, in short, is that the plaintiff schedule item No.1 having an extent of 1.5 cents belongs to him by virtue of a registered settlement deed of the year 1990. Plaintiff and defendant are siblings. Item No.2 having an extent of 1.75 cents also belongs to the plaintiff. She obtained this property by virtue of a gift deed in the year 1999. It lies on the northern side of item No.1. Property lying on the north of item No.2 in the plaintiff schedule belongs to the defendant. There was an earthen wall separating these two properties. The defendant destroyed the demarcating feature and trespassed upon a portion of land included in the plaintiff's property. Therefore, the suit was filed.

2. Defendant resisted the suit contending that the plaintiff has no title or possession over item No.2 in the plaintiff schedule. Title and possession of the plaintiff in respect of item No.1 is admitted. It is also contended that the settlement deed relied on by the plaintiff is a concocted

document. The defendant further contended that the plaintiff is not entitled to get any of the reliefs claimed in the suit.

3. Trial court after appreciating the evidence dismissed the suit finding that the plaintiff failed to establish title over item No.2 in the plaint schedule as she did not prove the execution of the settlement deed. The matter was taken before the first appellate court. That court also on reconsideration of the evidence, agreed with the finding of the trial court that the plaintiff failed to establish title and right to possess the property in dispute. These findings are purely questions of fact. This appeal does not give rise to any substantial question of law. Therefore, I find no merit in the appeal. It is dismissed.

A. HARIPRASAD, JUDGE.

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