

**IN THE COURT OF THE PRINCIPAL MUNSIFF, CHERTHALA****Present: Smt. Ashadevi V.S, Principal Munsiff****Wednesday, the 11<sup>th</sup> day of October, 2023/19th Aswinam, 1945****O.S. No.379/2023**  
(Filed on 15.07.2023)**Plaintiff:**

Sumesh K. D, aged 47, S/o. Devadas  
Devanandanam, Kuthiathodu Panchayath,  
Thuravoor.P.O, Cherthala.

**By Adv.T.Jayakrishnan, Adv.S.Lekha, Adv.Jintu.T.Babu,  
Adv.M.V.Baiju & Adv.V.Padmanabhan**

**Defendants:**

1. Babu @Jawahar, aged 73, S/o. Sreedharan  
Sreedharalayam, Padinjattinkara North Muri,  
Kuthiathodu Village, Thuravoor.P.O, Cherthala.
2. The Kuthiathodu Grama Panchayath  
Represented by its Secretary,  
Panchayath Office, Kuthiathodu.

**Defendants Exparte**

This suit having been finally heard on 10.10.2023 and the court on 11.10.2023 delivered the following:-

**JUDGMENT**

Suit for Mandatory Injunction and Permanent Prohibitory  
Injunction.

2. **Brief facts:-** Item No.1 is the property which plaintiff purchased from the 1<sup>st</sup> defendant . Plaintiff resides in item No.1 with his family. On the southern side of the property there exists Thuravoor-Thaikkattusserry road. The property is 500 metre east to Thuravoor Temple Junction which is a major junction in NH-66. It has now grown in to a mini town for all purpose. The entire area other than the tarred portion of the road, Thuravoor junction is occupied by different street vendors. It causes serious traffic problems and even the pedestrians found it difficult to travel through the side of the road. An illegal structure was constructed very close to item No.1 property on its south -western side. It was on the side of the road but causing very difficulty for the free pass of occupants in the house in item No.1 . The plaintiff complained of the said fact to the Authorities. The Assistant Executive Engineer, Cherthala have taken note of the illegal constructions and have given directions to appropriate authorities to take action for removal of shops and banners. The 2<sup>nd</sup> defendant Panchayath who is duty bound to remove such illegal constructions is not performing the duty. After much demand from the public, notice was issues to stop business in purambokku land but

as a retaliatory measure a new structure was constructed touching the compound wall of item No1 and in the property owned by the defendant. The 2<sup>nd</sup> defendant permitted such activities in his property. Even though he was informed about the said fact he pretended ignorance. The construction thus made in the property resulted in parking of the vehicles in front of the gate in item No.1 completely preventing entry to item No.1. Hence the suit filed against the 1<sup>st</sup> defendant who permitted such illegal construction in the property and the 2<sup>nd</sup> defendant who is duty bound to remove such illegal construction.

3. Defendants served with summons but they did not appear nor did they file any written statement. The plaintiff was examined as PW1. Exts A1 to A8 series and Ext C1 and C1(a) were marked.

4. By Exts A1 and A2 it is proved that plaintiff is title holder and person in possession of item No.1 . Exts A3 to A7 has shown that complaints were given to the Authorities by the plaintiff, his mother and neighbours against the illegal constructions. Ext C1 and C1(a) revealed that apprehension of plaintiff is proved. Thus the plaintiff is entitled to get the decree prayed for in the suit.

In the result, the Suit Decreed as follows:-

1. The 2<sup>nd</sup> defendant is hereby directed to remove the item No.2 construction within a period of 15 days from today failing which the plaintiff can get it removed through the process of the Court and the costs can be realised from the 2<sup>nd</sup> defendant.
2. The 1<sup>st</sup> defendant is restrained by a Decree of Permanent Prohibitory Injunction from conducting street vending or other forms of vending in his property which causes disturbance to the privacy of living in item No.1 property and its ingress and egress and also from causing any nuisance in the form of littering waste, parking vehicles and from defeating in any manner the peaceful life in item No.1 property.
3. Plaintiff is also allowed with costs of the suit.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open Court on this the 11<sup>th</sup> day of October, 2023).

Sd/-

**ASHADEVI. V.S  
PRINCIPAL MUNSIFF**

**Appendix:**

Witness for the Plaintiff:-

PW1            10.10.2023            Sumesh K.D

Exhibits for the plaintiff:-

- A1 - Certified copy of sale deed No.2001/2010 of SRO Kuthiyathodu, dated 05.08.2010.
- A2 - Photo copy of Tax receipt in T .P.No.15133 issued from Kuthiyathodu Village Office,dated 06.01.2023
- A3 - Copy of complaint filed by mother of plaintiff to chief minister, District Collector Alpy, Asst.Executive Engineer, Cherthala, dated 20.06.2022
- A4 - Photocopy of complaint filed by plaintiff & other against illegal street vendors on the side of Thuravoor Thycattussery road.
- A5 - Photocopy of letter issued by the Asst.Executive Engineer office, PWD road, Cherthala, dated 03.06.2023
- A6 - Complaint filed by plaintiff before Secretary Grama Panchayath, Kuthiyathodu, dated 12.07.2023
- A7 - Photograph

A8 to A8(f)-Photographs

Court Exhibits:-

- C1 - Commission report prepared by Adv.Jomole P.J,dated 16.08.2023
- C1(a)- Plan prepared by Adv. Jomole P. J,dated 16.08.2023

Id/-  
**PRINCIPAL MUNSIFF**