

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA



MARY CONNIE EPPERSON,
PLAINTIFF

v.

DEBBIE BRANTLEY COLEMAN,
et al.,
DEFENDANT

CASE NO. CV-98-242

Inst # 1998-47641

12/01/1998-47641
02:33 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

002 SNA 11.00

FINAL JUDGMENT

THIS CAUSE came on to be heard before this Court for a final order upon the pleadings filed by the parties in this cause. Upon consideration thereof, together with ore tenus testimony, the court makes the following partial findings of fact and enters the following final order.

The Court finds inter alia:

The parties are adjoining landowners. Plaintiffs acquired their tract of land approximately three (3) years ago for their residence. On September 15, 1997, Plaintiffs obtained a survey from a Fred W. Meade showing that Defendants' small building (storage shed) was located on Plaintiff's property. On September 18, 1997, Plaintiffs write Defendant, Debbie Brantley Coleman asking her to remove the said building or else pay Plaintiffs rent. A photocopy of the survey was sent with Plaintiff's letter. Plaintiffs then obtained a second survey which also showed Defendants' said building was over on Plaintiffs property. Stakes were placed by Plaintiffs' surveyor. The stakes were subsequently removed. Defendants only reply to Plaintiffs was that Plaintiffs would have to take Defendants to Court.

The dispute between Plaintiffs and Defendants also led to Defendants blocking Plaintiffs driveway in October, 1997.

Plaintiffs claim they have suffered damages of having to pay: attorney's fees; for surveys; cost of removal of fences; lost of wages; costs of photography; of process server; damage to land; reproduction costs; and Court cost.

Defendants have counterclaim for damage to their property allegedly as a result of Plaintiff's actions of maintaining their property.

Based upon the testimony, the Court finds the line separating the parties property is shown on Fred W. Meade's survey of September 15, 1997, which a copy thereof is attached to this Final Judgment and made a part hereof by reference. Defendants have now moved their shed from Plaintiffs property.

Plaintiffs' request damages for rent and for trespass. As to Plaintiffs request for damages under their trespass claim, Wray v. Mooneyham, 589 So. 2d 181 (S. Ct. 1991); Dallas v. McRinney, 267 Ala. 627, 103 So. 2d 785; and Boatright v. Morgan, 575 So. 2d 1091 all indicate that the damages for trespass on land is the difference in the value of the land before the trespass and the value immediately after the trespass. However, punitive damages may be awarded if the trespass was wilful, fraudulent, or done in known violation of the law, or intended with circumstances of malice, insult or disregard of the rights or interest of the Plaintiffs.

Accordingly, it is **ORDERED, ADJUDGED and DECREED:**

1. That Defendants are hereby permanently prohibited from placing any further items and personal property upon Plaintiffs land and from using the chert road on Plaintiffs' land.
2. That the Plaintiffs have judgment from the Defendants and recover from Defendants the sum of \$3,000.00 plus costs of Court.
3. All other relief requested by the parties is **DENIED**.

DONE and ORDERED this 19th day of October, 1998.


D. Al Crowson
Circuit Judge

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