

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

FAO.No. 77 of 2015 ()

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AGAINST THE ORDER IN I.A. NO.2917/2014 IN AS. NO.134/2014 OF ADDITIONAL
SUB COURT, IRINJALAKUDA DATED 23/01/2015.**

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APPELLANTS/APPELLANTS/PLAINTIFFS:

- 1. NASAR, AGED 40 YEARS,
S/O.KALLUNGAL KOCHUMHAMMED,
AYYAPPANPALAM DESOM, ERIYAD VILLAGE,
KODUNGALLUR TALUK.**
- 2. BINDU, AGED 46 YEARS, W/O.MADATHINGAL ASOKAN,
AYYAPPANPALAM DESOM, ERIYAD VILLAGE,
KODUNGALLUR TALUK.**
- 3. SULFATH, AGED 41 YEARS,
W/O.KALLUNGAL ABDUL LATHEEF,
AYYAPPANPALAM DESOM, ERIYAD VILLAGE,
KODUNGALLUR TALUK.**
- 4. SHIHAB, AGED 29 YEARS,
S/O.KALLUNGAL ABDUL LATHEEF,
AYYAPPANPALAM DESOM, ERIYAD VILLAGE,
KODUNGALLUR TALUK.**
- 5. ANSHAD, AGED 25 YEARS,
S/O.KALLUNGAL ABDUL LATHEEF,
AYYAPPANPALAM DESOM, ERIYAD VILLAGE,
KODUNGALLUR TALUK.**
- 6. SIYAD, AGED 23 YEARS,
S/O.KALLUNGAL ABDUL LATHEEF,
AYYAPPANPALAM DESOM, ERIYAD VILLAGE,
KODUNGALLUR TALUK.**
- 7. ANVAR, AGED 21 YEARS,
S/O.KALLUNGAL ABDUL LATHEEF,
AYYAPPANPALAM DESOM, ERIYAD VILLAGE,
KODUNGALLUR TALUK.**

BY ADV. SRI.G.SREEKUMAR (CHELUR).

RESPONDENTS/RESPONDENTS/DEFENDANTS:

1. BABY GIRIJA, AGED 47 YEARS,
D/O.KAMBILIKAL SREEDHARAN & LATE AMMU @
AMBUJAKSHY, ERIYAD VILLAGE,
KODUNGALLUR TALUK-680 001.
2. MANI, AGED 45 YEARS,
D/O.KAMBILIKAL SREEDHARAN & LATE AMMU @
AMBUJAKSHY, ERIYAD VILLAGE ,
KODUNGALLUR TALUK- 680 001.
3. SHEEJA, AGED 43 YEARS,
D/O.KAMBILIKAL SREEDHARAN & LATE AMMU @
AMBUJAKSHY, ERIYAD VILLAGE,
KODUNGALLUR TALUK- 680 001.
4. SREEJA, AGED 41 YEARS,
D/O.KAMBILIKAL SREEDHARAN & LATE AMMU @
AMBUJAKSHY, ERIYAD VILLAGE,
KODUNGALLUR TALUK- 680 001.
5. SUJA, AGED 39 YEARS,
D/O.KAMBILIKAL SREEDHARAN & LATE AMMU @
AMBUJAKSHY, ERIYAD VILLAGE,
KODUNGALLUR TALUK- 680 001.
6. SURAJ, AGED 37 YEARS,
S/O.KAMBILIKAL SREEDHARAN & LATE AMMU @
AMBUJAKSHY, ERIYAD VILLAGE,
KODUNGALLUR TALUK- 680 001.

BY ADVS. SRI.M.SHAJU PURUSHOTHAMAN,
SRI.K.S. RAJESH.

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD
ON 13-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rs.

P.B.SURESH KUMAR, J.

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F.A.O.No.77 of 2015.

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Dated this the 13th day of August, 2015.

J U D G M E N T

The order on I.A.No.2917 of 2014 in A.S.No.134 of 2014 on the file of the Sub Court, Irinjalakuda is under challenge in this appeal.

2. The appellants are the plaintiffs in O.S.No.899 of 2007 before the Munsiff's Court, Kodungallur. The said suit was filed seeking a declaration of the right of easement of the plaintiffs over plaint B schedule pathway. The suit was dismissed. The appellants challenged the decision of the trial court in A.S.No.134 of 2014. In the appeal, the appellants filed I.A.No.2917 of 2014 seeking an order of temporary injunction restraining the respondents therein from causing obstruction to the user of the plaint B schedule property in the suit as a pathway. That

application was dismissed by the appellate court as per the order impugned in this appeal. The appellants are aggrieved by the said order.

3. The appeal was admitted on 7.4.2015. At the time of admission of the appeal, having regard to the fact that the appellants were enjoying an order of status quo all through the suit, I have granted an order of temporary injunction in their favour restraining the respondents from interfering with the user of plaint B schedule property as a pathway. The said order of injunction has been in force all through out. In the said circumstances, the appeal is disposed of as follows:-

(i) The appellate court shall hear and dispose of A.S.No.134 of 2014 untrammelled by the views expressed by the appellate court in the order impugned in the appeal, within two months from today.

(ii) Till a final decision is taken in A.S.No.134 of

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2014, the interim order passed by this Court on 7.4.2015 will continue.

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

Kvs/-

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PA TO JUDGE.