

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

FAO.No. 131 of 2013 ()

AGAINST THE ORDER IN I.A.NO.907/2013 IN AS 59/2013 of DISTRICT COURT,THRISSUR
DATED 27-03-2013

APPELLANT/PETITIONER:

THOMAS MATHEW
S/O.CHITILAPPILY KUNJAPPU MATHEW,
KARYATTUKARA, ARANATTUKARA VILLAGE
THRISSUR.

BY ADV. SRI.BECHU KURIAN THOMAS

RESPONDENTS/RERSPONDENTS:

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1. ACHUTHAN
S/O.PARANGATTIL KARTHIYANI AMMA
PARLIKKAD VILLAGE
THALAPPILLY TALUK.
 2. ARUN,
S/O.PARANGATTIL ACHUTHAN
PARLIKKAD VILLAGE
THALAPPILLY TALUK.

R1 & 2 BY ADV. SRI.D.SREEKUMAR

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.N.RAVINDRAN & ANIL K.NARENDRA, JJ.

F.A.O. No.131 of 2013

Dated this the 6th day of March, 2015

J U D G M E N T

P.N.Ravindran, J.

The appellant is the plaintiff in O.S.No.1285 of 2009 on the file of the Court of the First Additional Subordinate Judge of Thrissur. The respondents are the defendants therein. The suit instituted by the appellant for a permanent prohibitory injunction restraining the defendants or persons claiming under them from causing any obstruction to the peaceful possession and enjoyment of the plant schedule property was dismissed after trial by judgment delivered on 18.2.2013. Aggrieved thereby, the appellant filed A.S.No.59 of 2013 on the file of the Court of the District Judge of Thrissur. In the appeal he filed I.A.No.907 of 2013 under Order XXXIX rule 1 of the Code of Civil Procedure for an interim order of injunction in term of the relief prayed for in the plaint. The respondents opposed the application by filing a counter affidavit. The lower appellate court considered the rival contentions and disposed of I.A.No.907 of 2013 by order passed on 27.3.2013 with a direction to both sides to maintain the status quo as on the date of the decree of the trial court. The lower appellate court also directed that no broken stone shall be removed from the

site. The said order is under challenge in this appeal.

2. When the appeal came up before us, we ascertained from the registry as to whether A.S.No.59 of 2013 on the file of the Court of the District Judge of Thrissur is still pending. The registry has reported that A.S.No.59 of 2013 stands posted to 4.4.2015 but the lower court records have not been received by the lower appellate court. In such circumstances, as the impugned order has been in force for nearly two years and A.S.No.59 of 2013 has not been disposed of till date, the proper course will be to dispose of this appeal with a direction to the lower appellate court where A.S.No.59 of 2013 is pending to dispose of the appeal in a time bound manner. We accordingly dispose of the appeal with the following directions:

(i) The Court of the First Additional Subordinate Judge of Thrissur shall within one week from the date on which either of the parties produce a copy of this judgment, transmit the records in O.S.No.1285 of 2009 to the Court of the District Judge of Thrissur for incorporation in the records in A.S.No.59 of 2013.

(ii) The Court of the District Judge of Thrissur shall hear and dispose of A.S.No.59 of 2013 if time permits on 4.4.2015. In any event the appeal shall be heard and disposed of before 31.5.2015. The contentions of both sides on the merits are kept open. Until such

time as the appeal is heard and disposed of, the interim order passed by this Court on 23.4.2013 staying the operation of the order impugned in this appeal, shall continue to be in force.

Registry to communicate a copy of this judgment to the courts below for compliance.

**P.N.RAVINDRAN,
(JUDGE)**

**ANIL K.NARENDRA,
(JUDGE)**

vps