

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

OP(C).No. 485 of 2015 (O)

(AS 27/2014 of SUB COURT, KOTTARAKKARA)

PETITIONER:

MARY JOHNSON, AGED 45 YEARS,
RESIDING AT POOVANNATHIL VEEDU, KARIMPINTHOTTAM
ARYIANKAVU MURI AND VILLAGE, PATHANAPURAM TALUK,
KOLLAM DISTRICT, KERALA STATE.

BY ADVS.SRI.JOHNSON GOMEZ
SRI.S.BIJU (KIZHAKKANELA)

RESPONDENTS:

1. ANNAMMA VARGHESE,
W/O.VARGHESE, MUTTOMTHUDIYIL HOUSE, KARIMPINTHOTTAM
ARYIANKAVU MURI AND VILLAGE, PATHANAPURAM TALUK
KOLLAM DISTRICT, KERALA STATE, PIN-691 309.
2. REEJA VARGHESE,, AGED 26 YEARS
D/O.LATE M.M.VARGHESE
RESIDING AT MUTTOMTHUDIYIL HOUSE, KARIMPINTHOTTAM
ARYIANKAVU MURI AND VILLAGE, PATHANAPURAM TALUK
KOLLAM DISTRICT, KERALA STATE, PIN-691 309.
3. RINSE VARGHESE,, AGED 24 YEARS
S/O.LATE M.M.VARGHESE
RESIDING AT MUTTOMTHUDIYIL HOUSE, KARIMPINTHOTTAM
ARYIANKAVU MURI AND VILLAGE, PATHANAPURAM TALUK
KOLLAM DISTRICT, KERALA STATE, PIN-691 309.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 485 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS :

EXT P1 : A TRUE COPY OF THE JUDGMENT DATED 12TH OCTOBER 2012
PASSED BY THIS HON'BLE COURT IN OPC. 3375 OF 2012.

EXT P2 : A TRUE COPY OF THE JUDGMENT DATED 1ST OCTOBER 2013 IN OP
NO.1735 OF 2013 PASSED BY THIS HON'BLE COURT.

EXT P3 : A TRUE COPY OF THE ORDER DATED 30TH SEPTEMBER 2014 IN IA
NO.741 OF 2014 IN AS NO.27 OF 2014 PASSED BY THE SUB
COURT, KOTTARAKKARA.

EXT P4 : A TRUE COPY OF THE APPEAL MEMORANDUM IN AS NO. 27 OF
2014 ON THE FILE OF THE SUB COURT, KOTTARAKKARA.

RESPONDENTS' EXHIBITS: NIL

// True Copy //

P.A. To Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.485 OF 2015

Dated this the 24th day of February, 2015.

J U D G M E N T

This is a petition filed under Article 227 of the Constitution of India seeking a direction to the Sub Court, Kottarakkara to take up A.S.No.27/2014 and dispose it of on merits in accordance with law within a time frame fixed by this Court.

2. The petitioner instituted O.S.No.196/2011 seeking a decree of declaration of her right of way through the property owned by the defendants in the suit. After trial, suit was decreed. The defendants preferred appeal as A.S.No.27/2014.

3. Learned counsel appearing for the petitioner points out that stay has been granted by the lower appellate court regarding operation of decree of lower court. According to the petitioner, the way now made available to her as per the decree of the trial court is the only access to her property and the order of stay causes injustice and irreparable loss and injury to her. Under this circumstances, the petitioner was compelled to approach this

Court seeking a direction to dispose of the appeal.

4. This Court is extremely reluctant to direct the court concerned to dispose of an appeal of the year 2014. But, in the light of the difficulties pointed out by the learned counsel for the petitioner and also the inconvenience caused to him, it is felt that it is only appropriate that necessary direction be issued.

5. In the nature of the order that is proposed to be passed, notice to the respondents is dispensed with.

This original petition is disposed of directing the Sub Court, Kottarakkara to take up A.S.No.27/2014 provided it is ripe for hearing and dispose it of in accordance with law as expeditiously as possible, at any rate, within a period of four months from the date of receipt of a copy of this judgment.

Sd/-

P.BHAVADASAN
JUDGE

smp