

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

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

OP(C).No. 625 of 2015 (O)

PETITIONER:

AMMINI SAMUEL, AGED 80 YEARS
W/O. (LATE) SAMUEL, RESIDING AT MADAPPALLIL HOUSE,
KUMBAZHA P.O., KUMBAZHA MURI,
PATHANAMTHITTA VILLAGE, KOZHENCHERRY TALUK,
PATHANAMTHITTA DISTRICT.

BY ADVS.SRI.JACOB P.ALEX
SRI.JOSEPH P.ALEX

RESPONDENTS:

1. PATHANAMTHITTA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, PATHANAMTHITTA P.O.,
PATHANAMTHITTA VILLAGE, KOZHENCHERRY TALUK,
PATHANAMTHITTA DISTRICT, PIN - 689 645.
2. K.S. ROY
MADAPPALLIL HOUSE, KUMBAZHA P.O.,
KUMBAZHA MURI, PATHANAMTHITTA VILLAGE,
PATHANAMTHITTA DISTRICT - 689 653.

R1 BY SRI.V.K.SUNIL, SC FOR PATHANAMTHITTA MUNICIPALITY

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.(C) 625/2015

A P P E N D I X

PETITIONER'S EXHIBITS:

- EXT. P1 : COPY OF PLAINT IN O.S.93/2015 OF MUNSIFF COURT,
PATHANAMTHITTA.
- EXT. P2 : COPY OF INJUNCTION APPLICATION FILED AS I.A.388/15
IN O.S.93/15 BEFORE MUNSIFF COURT,
PATHANAMTHITTA.
- EXT. P3 : COPY OF COMMISSION REPORT DTD. 3.3.15 IN
I.A.389/15 IN O.S.93/15 BEFORE MUNSIFF COURT,
PATHANAMTHITTA.
- EXT. P4 : PHOTOGRAPH SHOWING THE SUIT PROPERTIES.
- EXT. P5 : PHOTOGRAPHS SHOWING PRESENT SITUATION OF
ITEM No.3 PROPERTY.

RESPONDENT'S EXHIBITS: NIL.

// True copy //

P.A. To Judge.

smp

P. BHAVADASAN, J.

O.P.(C). No. 625 of 2015

Dated this the 6th day of March, 2015.

JUDGMENT

The petitioner moved O.S. 93 of 2015 before Munsiff's Court, Pathanamthitta seeking relief against Pathanamthitta Municipality against the construction obstructing the way to the house of the petitioner. Along with the suit, he filed an interlocutory application for injunction and also a commission application. The court allowed the commission application and the Commissioner filed Ext.P3 report.

2. The complaint of the petitioner is that after getting notice from the Commissioner with haste construction activity has started by the Municipality interfering with the right of way of the petitioner. According to the petitioner, if this activity of the Municipality is allowed to be continued, at the time of hearing of interlocutory application filed by the petitioner, nothing will

be left for the petitioner to contend for. The petitioner prays that the Municipality may be restrained from going on with further construction in the way as noted by the Commissioner till the interlocutory application is heard and disposed of by the lower court below, which is now tentatively posted to 10.3.2015.

3. Learned counsel for the Municipality pointed out that they would file the counter before the court below on or before 10.3.2015 and the matter can be heard on 10.3.2015 itself.

The petitioner claims the way as noticed by the Commissioner. Whatever that be, if at all any portion of the way is encroached upon, further encroachment shall not be made by the Municipality and access to the house of the petitioner shall not be interfered with until the interlocutory application is disposed of by the court below.

sb.

P. BHAVADASAN,
JUDGE