

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

OP(C) .No. 834 of 2015 (O)

(I.A.NO.556/2015 IN A.S.NO.35/2015 BEFORE THE SUB COURT, TIRUR)

PETITIONER:

FAIZAL, AGED 31 YEARS
S/O. ERANHIKKAL SAITHALAVI,
ERANHIKKAL HOUSE, MOONNIYOOR AMSOM DESOM,
ALINCHUVAD, MOONNIYOOR (P.O),
TIRURANGADI TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.JAMSHEED HAFIZ

RESPONDENT:

ABOOBACKER
S/O. ERANHIKKAL MOIDEEN
KUNDIL HOUSE
MOONNIYOOR AMSOM DESOM
ALINCHUVAD, MOONNIYOOR (P.O),
TIRURANGADI TALUK, MALAPPURAM DISTRICT.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C) .No. 834 of 2015 (O)

APPENDIX

PETITIONER(S) 'S EXHIBITS:

EXHIBIT P1: TRUE COPY OF THE I.A.NO.724/2015 IN O.S. 188/2012 BEFORE THE MUNSIFF COURT OF PARAPPANANGADI DATED 2.3.2015.

EXHIBIT P2: TRUE COPY OF THE ORDER DATED 3.3.2015 IN I.A. 724/2015 IN O.S.188/2012 BEFORE THE MUNSIFF COURT OF PARAPPANANGADI.

EXHIBIT P3: TRUE COPY OF THE APPEAL MEMORANDUM FILED BY THE PETITIONER HEREIN BEFORE THE SUB COURT, TIRUR DATED 6.3.2015.

EXHIBIT P4: TRUE COPY OF THE I.A.556/2015 IN A.S.35/2015 BEFORE THE SUB COURT, TIRUR DATED 6.3.2015.

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

Scl.

P.BHAVADASAN, J.

O.P.(C) No.834 of 2015

Dated this the 25th day of March, 2015.

JUDGMENT

This original petition is filed under Article 227 of the Constitution of India with a direction to the Sub Court, Tirur to take up I.A.No.556 of 2015 in A.S.No.35 of 2015 and dispose it of in accordance with law, as expeditiously as possible.

2. The petitioner is the first plaintiff in O.S.No.188 of 2012 before the Munsiff's Court, Parappanangadi. The suit was one for injunction restraining the defendants from obstructing pathway running through their property which the petitioner herein claimed a right of prescriptive easement.

3. Pending suit, the petitioner had enjoyed an order of status quo. After trial, the suit was dismissed. The petitioner thereafter filed A.S.No.35 of 2015 before the Sub Court, Tirur. Along with appeal, the petitioner also filed I.A.No.556 of 2015 for temporary injunction. He further points out after the order of dismissing the suit, the matter is still pending and no finality

is being reached and the petitioner is put to considerable loss and injury. The petitioner points out that if he succeeds in the appeal for enjoying pathway to his property, it will be without any remedy. The petitioner therefore prayed that there may be a direction to the court below to dispose of I.A.No.556 of 2015 in A.S.No.35 of 2015 before the Sub Court, Tirur.

This petition is allowed and the Sub Court, Tirur is directed to take up I.A.No.556 of 2015 in A.S.No.35 of 2015 and dispose it of in accordance with law, after hearing both the parties, as expeditiously as possible, at any rate, within four months from the date of receipt of a copy of this judgment.

**Sd/-
P.BHAVADASAN
JUDGE**

Scl.