

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

OP(C).No. 3466 of 2013 (O)

PETITIONER(S):

**SUDHAKARAN, AGED 81 YEARS
S/O. LATE VELAYUDHAN, KOVATTU VEED, KARIMBADAM KARA
CHENDAMANGALAM VILLAGE, PARAVUR TALUK, PIN-683513.**

**BY ADVS.SMT.JEENA JOSEPH
SRI.G.D.PANICKER**

RESPONDENT(S):

**SUBASH
S/O. NARAYANAN, MUTHEDATH, KARIMBADAM KARA
CHENDAMANGALAM VILLAGE, PARAVUR TALUK, PIN-683513.**

**BY ADVS. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.SUNANDA SUKUMARAN
SMT.N.ASWATHY
SMT.DEVI P. PRATHAPAN
SMT.K.R.MONISHA
SMT.V.BVRINDA**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 12-02-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

OP(C).No. 3466 of 2013 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1- A TRUE PHOTOCOPY OF THE PLAINT FILED IN O.S.NO. 573/2011.**
- EXHIBIT P2- A TRUE PHOTOCOPY OF THE REPOT FILED BY THE ADVOCATE COMMISSIONER.**
- EXHIBIT P3- A TRUE PHOTOCOPY OF THE COUNTER FILED BY THE PETITIONER IN I.A.NO. 2278/2013.**
- EXHIBIT P4- A TRUE PHOTOCOPY OF THE ORDER DATED 13-3-2013 IN I.A.NO. 21/2012.**
- EXHIBIT P5- A TRUE PHOTOCOPY OF THE I.A.NO. 1388/2013 FILED BY THE PETITIONER.**
- EXHIBIT P6- A TRUE PHOTOCOPY OF COUNTER FILED BY THE PETITIONER IN I.A.NO. 1388/2013.**
- EXHIBIT P7- A TRUE PHOTOCOPY OF THE ORDER IN I.A.NO. 1388/2013.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.BHAVADASAN, J.

O.P.(C) No. 3466 of 2013

Dated this the 12th day of February, 2015

J U D G M E N T

The controversy in this petition has narrowed down considerably with regard to the pathway which the petitioner is alleged to have permitted the respondent to use pending the suit.

2. The respondent laid a suit for prohibitory injunction seeking to have his right established over a pathway running through the middle of the property of the defendant in the suit. The defendant resisted the suit and pointed out that there were no such pathway. An interlocutory application was moved by the plaintiff for interim relief. A Commissioner was deputed who reported that there were no signs of any pathway in existence. Finding that the Commissioner was not able to find out a way, on the basis of the concession made by the respondent in the interlocutory application, the following order was

passed:

“In the result, the petition is allowed. Respondent is hereby directed to remove the obstructions in the way that temporarily allotted to the use of petitioner, within 5 days from the date of this order. In case of his failure, petitioner is allowed to remove it. Circle Inspector of Police, Vadakkekara, shall give necessary assistance to the petitioner for removing it.”

3. Later, I.A.No.21/2012 was moved for mandatory injunction by the respondent herein which was dismissed by the court below. Thereafter, they moved I.A.No.1388/2013 for a direction to Circle Inspector to remove the obstruction alleged to have been caused by the petitioner herein to the permitted pathway during the pendency of the suit. That petition has been allowed. The said order is under challenge.

4. The learned counsel appearing for the petitioner has undertaken before this Court that they will not obstruct a two feet width pathway running along the southern

boundary of their property to give access to the plaintiff to their property on the southern side of the property of the defendant till the disposal of the suit and the respondent undertakes not to obstruct or interfere with the enjoyment and possession of rest of the property by the petitioner herein.

5. Recording the above undertakings by both sides, this petition is disposed of.

The court below may dispose of the suit as expeditiously as possible, at any rate, within a period of five months from the date of receipt of a copy of this judgment.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge