

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

OP(C).No. 1394 of 2015 (O)

(OS 826/2014 of MUNSIFF COURT, PUNALUR)

PETITIONER:

BABY, AGED 73 YEARS
S/O LATE M.C.PHILIP, PARAVILAKONATHU PUTHEN VEEDU
NEAR PACHAYIL KADA BUS STOP, CHANDANAKKAVU,
THINGALKARIKKAM VILLAGE, PUNALUR TALUK.

BY ADVS.SRI.T.K.MARTHANDAN UNNITHAN
SRI.V.JAYAKUMAR

RESPONDENTS:

1. THE STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM,
PIN:695001.
2. THE PRINCIPAL CHIEF CONSERVATOR OF FOREST,
VAZHUTHACADU, THIRUVANANTHAPURAM-695014.
3. THE REHABILITATION PLANTATION LTD.
PUNALUR REPRESENTED BY THE MANAGING DIRECTOR
R.P. LIMITED, PUNALUR, PIN:691305.

R3 BY ADV. SRI.SAJI VARGHESE
R3 BY ADV. SMT.MARIAM MATHAI
R2 BY SRI.M.P.MADHAVANKUTTY, SPL. GOVT. PLEADER FOR
FOREST

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
17-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 1394 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1: TRUE COPY OF COMMISSION REPORT DATED 23.6.2014 IN
OS NO.286/2014 OF THE MUNSIFF'S COURT, PUNALUR.

EXHIBIT P2: TRUE COPY OF THE ORDER DATED 17.11.2014 PASSED BY THE
MUNSIFF'S COURT ON IA NO.1313/2014 IN OS NO.286/2014.

EXHIBIT P3: TRUE COPY OF THE ORDER DATED 1.6.2015 PASSED BY THE
SUB COURT IN CMA.NO.45/2014.

RESPONDENTS' EXHIBITS: NIL.

// True copy //

P.A. To Judge.

smp

P. BHAVADASAN, J.

O.P.(C) No. 1394 of 2015

Dated this the 17th day of June, 2015.

JUDGMENT

Aggrieved by the order of the Munsiff's Court, Punalur regarding the use of way and the right to use the same, which was confirmed in appeal, the plaintiff has come up with this Original Petition under Article 227 of the Constitution of India.

2. The courts below were of the view that being a reserve forest, the plaintiff cannot claim any easement right over the land under the provisions of the Kerala Forest Act. However the courts below ordered status quo to continue till the disposal of the suit.

3. The apprehension expressed by the petitioner is that with the above finding on record if the plaintiff goes in for trial, no purpose will be served.

4. Shri. G., Unnikirishnan, learned counsel appearing for the third respondent contended that the above

findings are only for the purpose of the interlocutory application and appeal, and it is trite that suit will be decided on merits and in the light of the evidence adduced in the suit.

5. The submission of the learned counsel for the petitioner does not appear to be correct. Whatever said in the order in the interlocutory application is only for the purpose of disposal of that application and it will not be carried over for decision in the suit.

This Original Petition is disposed of directing the trial court to dispose of the suit untrammelled by any observation made by any of the courts while disposing of the interlocutory application, but in the light of the evidence adduced in the suit.

P. BHAVADASAN,
JUDGE

sb.