

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE B.KEMAL PASHA

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 193

OP(C).No.1444 of 2015 (O)

**E.A NO.92/2015 IN E.P NO.154/2015 IN O.S NO.200/2011 OF THE MUNSIF COURT,
CHALAKKUDY.**

..

PETITIONER:

**FRANCO,AGED 45 YEARS,S/O.THELEKKATT MATHEW,
THELAKKAT HOUSE,KADUKUTTY DESOM,
KALLUR VADAKKUMMURI VILLAGE,
CHALAKKUDY TALUK,THRISSUR DISTRICT.**

**BY ADVS.SRI.A.JAYASANKAR
SRI.C.V.MANUVILSAN
SRI.MANU GOVIND
SMT.INDULEKHA JOSEPH**

RESPONDENT:

**NITTA GELATINE INDIA LIMITED,REPRESENTED BY
EXECUTIVE DIRECTOR,SHAJI MOHAN,AGED 53 YEARS,
S/O.PARAMESWARAN,FLAT NO.7D,
JM TOWER,VADUTHALA,KOCHI-682 023.**

**R1 BY SRI.K.ANAND (SENIOR ADVOCATE)
ADV.SMT.LATHA KRISHNAN**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 06-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

pk

OP(C).No.1444 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1:A TRUE PHOTOCOPY OF THE JUDGMENT AND DECREE
DATED 24-03-2014 IN OS 200/2011 OF THE LEARNED MUNSIFF
COURT,CHALAKKUDY.**

**EXHIBIT P2:A TRUE PHOTOCOPY OF THE ORDER DATED 01/04/2015 IN
E.A 93/2015 IN EP 154/2015 IN OS 200/2011 OF THE LEARNED
MUNSIFF-COURT,CHALAKUDY.**

**EXHIBIT P3:A TRUE PHOTOCOPY OF THE COMMISSION REPORT
DATED 23/05/2015.**

**EXHIBIT P4:TRUE PHOTOCOPY OF THE ORDER DATED 06/06/2015 IN E.A 92/2015
IN EP 154/2015 IN OS 200/2011**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

B. KEMAL PASHA, J.

.....
O.P.(C) No.1444 of 2015
.....

Dated this the 6th day of July, 2015

J U D G M E N T

~ ~ ~ ~ ~

The pipe flowing the water installed by the respondents company is passing through the property of the petitioner. The said right to the respondents was granted by the predecessor-in-interest of the property of the petitioner. Claiming that obstructions are being caused to the flow of water through the pipeline, the respondents had approached the court below through E.A.No.92/2015 in E.P.No.154/2015 in O.S.No.200/2011. The court below has passed Ext.P4 order as follows:-

“In the result, the E.A. is allowed in part and the decree holder is allowed to remove obstructions, if any, caused to the pipeline passing through the B schedule property and to undertake and the maintenance work of the pipeline at its expense. The decree holder shall undertake the repairs without any damage to the B schedule property and shall restore the same to its original position after undertaking the repairs at the supervision of the commissioner.”

2. A Commission was taken out and the Commissioner has inspected the property. Even though the Commissioner could see a broken portion on the pipe, it could be found that no obstruction was caused to the flow of water. The present complaint of the petitioner is that frequently, intrusions are made into their property by the respondents under the guise of the inspection to the pipeline. Of course, that cannot be curtailed as it is the right of the company to cause the flow of water through the pipeline, which passes through the property of the petitioner. The said permission was granted by the predecessor-in-interest of the petitioner. Presently, Ext.P4 order does not require any interference at all.

In the result, this OP(Civil) is closed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/06/07

// True Copy //

PA to Judge