

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

OP(C).No. 1735 of 2015 (O)

**ORDER DATED 10-04-2015 IN CMA 44/2014 OF ADDITIONAL DISTRICT COURT,
NORTH PARAVUR**
.....

PETITIONER(S):

**SANALA RAVI, AGED 51 YEARS,
W/O.RAVI, THUNDATHIL HOUSE, PARAPPURAM KARA,
KIZHAKKUMBHAGOM VILLAGE, ALUVA TALUK.**

BY ADV. SRI.K.S.RAJEEV (ALUVA)

RESPONDENT(S):

**SUBRAMANIAN, AGED 64 YEARS,
S/O.VELAYUDHAN, KIZHAKKELAN HOUSE, PARAPPURAMKARA,
KIZHAKKUMBHAGOM VILLAGE, ALUVA TALUK - 683 575.**

**BY ADVS. SRI.K.S.BABU
SMT.N.SUDHA
SRI.BABU SHANKAR**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 18-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

OP(C).No. 1735 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. TRUE COPY OF PLAINT IN OS 172/12..

EXHIBIT P2. TRUE COPY OF ADVOCATE COMMISSION REPORT 19.06.2012.

EXHIBIT P3. TRUE COPY OF SKETCH FILED WITH THE COMMISSION REPORT
19.06.2012.

EXHIBIT P4. TRUE COPY OF COMMISSION REPORT DATED 27.06.2012.

EXHIBIT P5. TRUE COPY OF COMMON ORDER DATED 30.11.13.

EXHIBIT P6. TRUE COPY OF ORDER IN CMA NO.44/14 DATED 10.04.15.

EXHIBIT P7. TRUE COPY OF IA.NO.1424/2013 DTD.24.9.2013.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.A.TO JUDGE

Msv/

K.ABRAHAM MATHEW J.

O.P.(C)No.1735 of 2015

Dated this the 18th day of December, 2015

JUDGMENT

Petitioner is the second defendant in O.S.No.172 of 2012 of Munsiff Court, Aluva. The Plaint A schedule property belongs to first respondent-plaintiff. It is used as a way. Plaint B schedule is said to be a public way leading from a nearby panchayat road and reaching the plaint A schedule way. The first respondent filed applications for temporary prohibitory injunction and mandatory injunction. Both were dismissed by the trial court. The orders were challenged by the first respondent in CMAs Nos.30 and 31 of 2012. Both parties agreed before the appellate court that they would maintain status quo as on 19.6.2012 and recording it the CMAs were disposed of. Thereafter, the first respondent filed I.A.No.344 of 2014 alleging that obstructions were made on the B schedule way and praying that they may be ordered to be removed. On the basis of the report of the commissioner the trial court found that the allegation is true and it ordered removal of the obstructions. This has been confirmed in CMA No.44 of 2014. Its correctness is challenged.

2. Heard.

3. It is seen from Ext P5 common judgment in CMA Nos.30 and 31 of 2012 that both parties agreed that they would maintain status quo as on 19.6.2012. After the filing of I.A.No.344 of 2014, a

commissioner was deputed to inspect the property. He has reported that there are obstructions on the pathway. Some trees were cut down and its logs were put across the way. Learned counsel for the petitioner submits that the petitioner did not do it. That may or may not be true. But there are obstructions on the B schedule pathway. It has to be removed. The trial court and the appellate court rightly came to the conclusion that the respondent is entitled to get the obstruction removed. No interference is called for.

In the result, this Original Petition is dismissed.

Sd/-
K.ABRAHAM MATHEW
JUDGE

cms

/True copy/

P.S.to Judge