

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

OP(C).No. 2884 of 2015 (O)

(CMA.NO. 61/2014 OF 1ST ADDL.DISTRICT COURT, KOZHIKODE DATED 10-09-2015)

PETITIONER/RESPONDENT NO.1 :

**M/S.GRASIM INDUSTRIES LTD.,
REP. BY ITS GENERAL MANAGER, (ADMINISTRATION),
LT.CAL. K.K MANU (RTD), AGED 50 YEARS,
MAVOOR AMSOM, DESOM, KOZHIKODE- 673 661**

**BY ADVS.SRI.SHYAM PADMAN
SRI.S.K.SAJU
SMT.BOBY M.SEKHAR**

RESPONDENT(S)/APPELLANTS & RESPONDENT NOS. 2 & 3 :

- 1. NOUSHAD, AGED 34 YEARS,
S/O. MUHAMMEDALI, PAZHAMBALLI MEETHAL HOUSE,
P.O MAVOOR, MAVOOR AMSOM, DESOM,
KOZHIKODE TALUK, PIN -673 661,
REP. BY PA HOLDER MUHAMMEDALI, AGED 60 YEARS,
S/O. ALI, PAZHAMBALLI MEETHAL HOUSE, P.O MAVOOR,
MAVOOR AMSOM, DESOM, KOZHIKODE TALUK,
PIN- 673 661**
- 2. LASEENA, AGED 27 YEARS,
D/O. SIDDIQUE, PAZHAMBALLI MEETHAL HOUSE,
P.O.MAVOOR, MAVOOR AMSOM, DESOM,
KOZHIKODE TALUK, PIN -673 661
REP. BY PA HOLDER MUHAMMEDALI, AGED 60 YEARS,
S/O. ALI, PAZHAMBALLI MEETHAL HOUSE, P.O MAVOOR,
MAVOOR AMSOM, DESOM, KOZHIKODE TALUK,
PIN -673 661**
- 3. MUHAMMEDALI, AGED 61 YEARS,
S/O.ALI, PAZHAMBALLI MEETHAL HOUSE, P.O MAVOOR,
MAVOOR AMSOM, DESOM, KOZHIKODE TALUK, PIN -673 661**
- 4. MAVOOR GRAMA PANCHAYATH,
MAVOOR -673 661, REP. BY ITS SECRETARY.**
- 5. PATHUMMAKUTTY, AGED 63 YEARS,
D/O. KUTTY HASSAN, NARIKUNNI HOUSE,
P.O.PANTHEERANKAVU, KOZHIKODE- 19**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

OP(C).No. 2884 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 THE TRUE COPY OF THE PLAINT IN O.S NO.386/2013 BEFORE THE COURT OF THE PRINCIPAL MUNSIFF 1, KOZHIKODE
- EXHIBIT P2 THE TRUE COPY OF IA NO.2331/2014 IN OS NO.386/2013
- EXHIBIT P3 THE TRUE COPY OF THE ORDER DATED 11-11-2014 IN IA NO 2331/2014 IN OS NO.386/2013
- EXHIBIT P4 THE TRUE COPY OF THE MEMORANDUM OF APPEAL DATED 25-11-2014 IN C.M.A NO.61/2014 OF THE DISTRICT JUDGE, KOZHIKODE
- EXHIBIT P5 THE TRUE COPY OF THE JUDGMENT DATED 10-09-2015 IN C.M.A NO. 61/2014 OF THE DISTRICT JUDGE,KOZHIKODE

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.S.TO JUDGE

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K.ABRAHAM MATHEW J.

O.P.(C)No.2884 of 2015

Dated this the 9th day of December, 2015

JUDGMENT

The petitioner is the plaintiff in O.S.No. 386 of 2013 of Principal Munsiff-I, Kozhikode. The suit is for declaration of title, recovery of possession and perpetual injunction. Along with the plaint he filed an application for temporary injunction. The trial court restrained the respondents/defendants from encroaching upon plaint C schedule property and making any construction in it and from using plaint B schedule property as a pathway. This has been modified by the appellate court in CMA No.61 of 2014. The only injunction granted by the appellate court is prohibition from making any construction in the plaint C schedule property. This is challenged in this Original Petition.

2.Heard.

3. Learned counsel for the petitioner submits that the respondents do not claim any right over the pathway and there is no foundation in the pleadings for making such a claim. That may be true. But on the date of the institution of the suit they were using the pathway. In the circumstance, it is only proper that the trial court is directed to dispose of the suit itself as expeditiously as possible.

In the result, this Original Petition is disposed of with a direction to the trial court to dispose of the suit untrammelled by any of the observations in the impugned judgment.

Sd/-
K.ABRAHAM MATHEW
JUDGE

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/True copy/

P.S.to Judge