

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. 3004 of 2015 (O)

ORDER DATED 10-08-2015 IN OS 233/2012 OF MUNSIF COURT, HARIPAD

PETITIONER(S)/PLAINTIFFS:

1. MANOJNJAMONI, AGED 85 YEARS,
W/O. RAVEENDRA NATH, PUTHENPURAYIL VEETIL,
MUTHUKULAM NORTH MURI, MUTHUKULAM VILLAGE,
KARTHIKAPPALLY TALUK, ALAPPUZHA DISTRICT.
2. RADHAKRISHNAN ACHARY, AGED 49 YEARS,
S/O. RAMAN ACHARY, KOLLAMPARAMBIL VEETIL,
MUTHUKULAM NORTH MURI, MUTHUKULAM VILLAGE,
KARTHIKAPPALLY TALUK, ALAPPUZHA DISTRICT.

BY ADV. SRI.G.BENO

RESPONDENT(S)/DEFENDANTS:

1. KUSUMAM, AGED 37 ,
W/O. CHANDRA MOHANAN, PUTHUPURACKAL VEETIL,
MUTHUKULAM NORTH MURI, MUTHUKULAM VILLAGE,
KARTHIKAPPALLY TALUK, ALAPPUZHA DISTRICT - 690 502
2. ROHINI, AGED 45 YEARS,
W/O. RAJAN, ANANDU BHAVANAM, MUTHUKULAM NORTH MURI,
MUTHUKULAM VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT - 690 502.
3. SOBHANA, AGED 58 YEARS,
W/O. RAJENDRAN, PUTHUPURACKAL KIZHAKKETHIL,
MUTHUKULAM NORTH MURI, MUTHUKULAM VILLAGE,
KARTHIKAPPALLY TALUK, ALAPPUZHA DISTRICT - 690 502.
4. RENJITHA, AGED 34 YEARS,
W/O. PADMAKUMAR, SREE CHAKRA NILAYAM, NEENDOOR MURI,
PALLIPPAD VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT - 690 502.

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

msv/

OP(C).No. 3004 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 TRUE COPY OF THE PLAINT IN OS NO 233/12

EXT.P2 TRUE COPY OF THE I.ANO 1265/12 DTD 26/9/12

EXT.P3 TRUE COPY OF THE COMMISSIONER REPORT DTD 26/09/12 IN EXT. P1

EXT.P4 TRUE COPY OF THE OBJECTION OF DEFENDANTS IN EXT. P4

EXT.P5 TRUE COPY OF THE I.A NO 1361/15 DTD 06/08/15 IN EXT. P1

EXT.P6 TRUE COPY OF THE I.ANO 1362/15 DTD 06/08/15 IN EXT. P1

EXT.P7 TRUE COPY OF THE ORDER OF THE HON'BLE MUNSIFF COURT
DATED 10/08/15 IN EXT.P5

EXT.P8 TRUE COPY OF THE ORDER OF THE HON'BLE MUNSIFF COURT
DATED 10/08/15 IN EXT. P6

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K.ABRAHAM MATHEW J.

O.P.(C)No.3004 of 2015

Dated this the 9th day of December, 2015

JUDGMENT

Petitioners are the plaintiffs in O.S.No.233 of 2012 of Munsiff Court, Haripad. The suit is for declaration of their right of easement by prescription over plaint schedule item No.3 pathway and for a perpetual injunction. The commissioner appointed to conduct the local inspection has filed a report. The petitioners' wanted to appoint another Commissioner to ascertain the width of the pathway. His application has been dismissed.

2. Heard.

3. The width of a formed road or a paved way can be ascertained. There is no means to ascertain the width of a pathway. So the request of the petitioner to appoint a commissioner to ascertain the width of the pathway could not have been allowed. The learned Munsiff rightly dismissed his application.

In the result, this Original Petition is dismissed.

Sd/-

**K.ABRAHAM MATHEW
JUDGE**

cms

/True copy/

P.S.to Judge