

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

RSA.No. 706 of 2015 (A)

**AS 101/2010 of ADDL. DISTRICT COURT - IV, KOLLAM
OS 255/2009 of ADDL.MUNSIFF COURT, KOLLAM**

APPELLANTS/APPELLANTS/DEFENDANTS :

1. MADHAVAN PILLAI, AGED 71 YEARS,
W/O.NARAYANA PILLAI, GEETHA BHAVAN, BHAVANA NAGAR 96,
KADAPPAKKADA, VADAKKEVILA VILLAGE, KOLLAM-691

2. MANIKANTAN, AGED 34 YEARS,
S/O.MADHAVAN NAIR, OF DO. DO. - 691

BY ADV. SRI.K.S.MANU (PUNUKKONNOOR)

RESPONDENTS/RESPONDENTS/PLAINTIFFS :

1. RAGHAVAN PILLAI
S/O.SANKU PILLAI, AMBILI HOUSE, (DIED)
BHAVANA NAGAR 190, KADAPPAKKADA,
VADAKKEVILA VILLAGE, KOLLAM- 691

2. LALITHAMMA, AGED 67 YEARS,
W/O.RAGHAVAN PILLAI OF DO.

3. AMBILI, AGED 44 YEARS,
D/O.RAGHAVAN PILLAI OF DO.

4. ASHA, AGED 42 YEARS,
D/O.RAGHAVAN PILLAI OF DO.

**THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION
ON 10-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

P.B.SURESH KUMAR, J.

R.S.A.No.706 of 2015

Dated this the 10th day of December , 2015

JUDGMENT

The defendants in a suit for injunction are the appellants in the second appeal.

2. The plaint schedule property belongs to the plaintiff. The property on the east of the plaint schedule property belongs to the defendants. The case of the plaintiff was that the defendants were attempting to cut open a pathway through the plaint schedule property. The defendants resisted the suit. According to them, they have a right to use the plaint schedule property for access to the western public road. The trial court accepted the case of the plaintiff and decreed the suit. Though the matter was taken up in appeal by the defendants, the appellate court confirmed the decision of the trial court. The defendants who are aggrieved by the concurrent decisions

against them have thus come up in the second appeal.

3. Heard the learned counsel for the appellants.

4. It is the case of the defendants is that they have a right of easement by grant over the plaint schedule property. Ext.B1 is the title deed of the defendants. The appellate court found that the vendor of the defendants has nothing to do with the plaint schedule property.If the vendor of the defendants has nothing to do with the plaint schedule property, the defendants cannot claim a right of easement by grant over the plaint schedule property.

In the said facts and circumstances, there is no merit in the second appeal and the same is, accordingly dismissed.

P.B.SURESH KUMAR, JUDGE.

smm