IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

RSA.No. 764 of 2014 G

AS 174/2008 OF THE ADDITIONAL DISTRICT COURT-I, MAVELIKKARA
OS 60/2006 OF THE MUNSIFF COURT, MAVELIKKARA

APPELLANTS/APPELLANTS/DEFENDANTS:

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1. **STATE OF KERALA,**
   REPRESENTED BY THE DISTRICT COLLECTOR, ALAPPUZHA.

2. **THE ASSISTANT EXECUTIVE ENGINEER PWD [ROADS],**
   PWD REST HOUSE, MAVELIKKARA.

3. **THE ASSISTANT ENGINEER,**
   PWD REST HOUSE, KATTANAM.

4. **THE ASSISTANT CONSERVATOR OF FORESTS,**
   SOCIAL FORESTRY, ALAPPUZHA DIVISION, ALAPPUZHA.

BY SPECIAL GOVERNMENT PLEADER SRI.M.P.MADHAVANKUTTY

RESPONDENTS/RESPONDENTS/PLAINTIFFS:

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1. **M.RAJENDRAN,**
   S/O MADHAVAN [DIED], KINARUVILAYIL SACHUS,
   KARIMULACKAL MURI, CHUNAKKARA VILLAGE (DIED).

2. **RADHA T, KINARVILAYIL SACHUS, KARIMULAKAL MURI**
   CHUNAKKARA VILLAGE, [ADDL.2ND RESPONDENT IMPLEADED AS PER ORDER ON IA 183/10 ON 20.07.2010]

3. **SACHU, S/O LATE M.RAJENDRA, KINARVILAYIL SACHUS,**
   KARIMULAKAL MURI, CHUNAKKARA VILLAGE [ADDL.3RD RESPONDENT IMPLEADED AS PER ORDER ON IA 183/10 ON 20.07.2010].

THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION ON 24-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

P.B.SURESH KUMAR, J.

R.S.A.No.764 of 2014

Dated this the 24th day of November, 2015

JUDGMENT

The defendants in the suit are the appellants. The suit was one for mandatory injunction.

2. The case of the plaintiff is that three trees standing in plaint C schedule road used as access to plaint A schedule property owned by the plaintiff is causing inconvenience to the vehicular traffic through the said road. The defendants are State and the officials of the Public Works Department of the State. The plaint C schedule road is part of a road maintained by the Public Works Department of the State. The trial court decreed the suit directing the defendants to cut and remove the trees in the plaint C schedule road and the decision of the trial court has been confirmed in appeal. Aggrieved by the decisions of the courts below, the defendants have come up in the second appeal.

3. Heard the learned Government Pleader.

4. The learned Government Pleader appearing for the appellants conceded that the decree has been executed during the pendency of the second appeal. In the light of the said development, the only point raised by the learned Government Pleader was concerning the sustainability of the costs ordered against the defendants by the trial court. No question of law is seen framed in this second appeal concerning the cost part of the decree. Further, it is seen that the costs certified by the trial court is only Rs.104/-.

In the said circumstances, the appeal is devoid of merits and the same is accordingly dismissed. All the interlocutory applications in the appeal are closed.

P.B.SURESH KUMAR, JUDGE.

smm