

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

WA.No. 1490 of 2014

AGAINST THE JUDGMENT DATED 19-09-2014 IN WP(C) 28219/2010.
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APPELLANT(S)/RESPONDENT NOS 2 & 3:

- 1. SMT.VALSAMMA ALEX,
KANDATHIPARAMBILAYA THYPADAVIL HOUSE,
THUKALASSERI MURI, THIRUVALLA.**
- 2. K.P ALEXANDER,
KANDATHIPARAMBILAYA THYPADAVIL HOUSE,
THUKALASSERI MURI, THIRUVALLA.**

BY ADV. SRI.JOHN K.GEORGE

RESPONDENT(S)/PETITIONER & 1ST RESPONDENT:

- 1. K.M.LILLYKUTTY, W/O M.V VARGHESE,
353/111 J.P NAGAR HOUSING COLONY,
MUTHOOT MURI, THIRUVALLA VILLAGE - 691 101.**
- 2. DEPUTY DIRECTOR OF SURVEY,
PATHANAMTHITTA - 689596.**

**R1 BY ADV. SRI.P.R.VENKETESH
R2 BY SPECIAL GOVT. PLEADER SMT.GIRIJA GOPAL**

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 02-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

**ASHOK BHUSHAN, C.J. &
A.M.SHAFFIQUE, J.**

W.A.No1490 of 2014

Dated this the 2nd day of December, 2015.

J U D G M E N T

SHAFFIQUE, J.

This appeal has been filed by respondents 2 and 3 in W.P.(C)No.28219/10 challenging the judgment dated 19.9.2014, by which the learned Single Judge has disposed of the writ petition with the following direction :

" (i) Ext.P4 order passed by the 1st respondent is quashed. The question of right of way, if any available to the petitioner, will be considered by the trial court in O.S.No.288/1994 on the file of the Munsiff's Court, Thiruvalla, in accordance with the directions issued by this Court in the judgment dated 26.6.2012 in S.A.No.629/2001."

2. The learned counsel appearing for the appellants submits that there was no reason to set aside Ext.P4 order passed by the Deputy Director of Survey, as the matter was pending consideration before the trial court.

3. The issue between the contesting parties is with reference to a path way which has been claimed by the writ petitioners, which according to the appellants, is their own

property, which fact is disputed by the writ petitioners. According to the writ petitioners, Ext.P4 order was passed without issuing notice to them and therefore it is required to be set aside.

4. After hearing the learned counsel appearing on either side and on a perusal of records, we do not think that there is any necessity to interfere with the judgement of the learned Single Judge as the parties have approached the civil court for seeking appropriate reliefs. We only observe that, it shall be open for either parties to place on record all the materials including the re-survey plan which has been prepared in the matter. Hence, no further direction is required in the matter. Accordingly, this writ appeal is disposed of with the above observation.

Sd/-
ASHOK BHUSHAN,
CHIEF JUSTICE.

Sd/-
A.M.SHAFFIQUE,
JUDGE.

ami/

//True copy//

P.A. to Judge