

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

WP(C).No. 17988 of 2012 (W)

PETITIONER(S):

1. RAJAN,
S/O. ARAMUGHAN, VAKAYIL PARAVANNOOR HOUSE,
MURIVAZHIKKAL, PARAVANNA.P.O, TIRUR TALUK,
MALAPPURAM - 676 101.
2. SAVITHRI,AGED 46 YEARS,
W/O. RAJAN, VAKAYIL PARAVANNOOR HOUSE,
MURIVAZHIKKAL, PARAVANNA.P.O. TIRUR TALUK,
MALAPPURAM DISTRICT - 676 101.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENT :

**THE ADDITIONAL DISTRICT MAGISTRATE,
MALAPPURAM-676 505**

BY GOVERNMENT PLEADER SRI.S.JAMAL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 08-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).NO.17988/2012

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE REGISTERED ASSIGNMENT DEED NO.1111/2008 OF SRO, TIRUR**
- P2 COPY OF THE ORDER IN I.A.NO.986/2008 IN A.S.NO.47/2007.**
- P3 COPY OF THE JUDGMENT DATED 12/4/2012 IN WP(C).NO.21202/2011**
- P4 COPY OF THE ORDER NO.E3-7148/11 DATED 22/06/2012**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K.VINOD CHANDRAN, J.

W.P.(C).No.17988 of 2012

Dated this the 08th day of June 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P4 order insofar as there being an observation in the same that the pathway is public in nature. Admittedly, the Assistant Executive Engineer moved an application before the Additional District Magistrate, Malappuram for removal of obstruction under Section 16(1) of the Indian Telegraph Act, 1885, so as to draw a line to a property of a neighboring resident; who is not impleaded herein. Ext.P4 order was passed permitting the Assistant Executive Engineer, KSEB to draw the line as proposed. The petitioner in Ext.P4 is also not made a party herein.

2. The contention of the petitioners who were the

respondents in Ext.P4 is that the above noticed observation is against the Civil Court decree. However, no such expunging of remarks can be made when the affected parties are not in the party array. The learned counsel for the petitioner submits that Ext.P4 was never acted upon and the beneficiary drew a power line through an alternate route. But this Court would not act only on such assertion made by the petitioners in a writ petition where neither the beneficiary nor the KSEB, has been impleaded and extended an opportunity to refute or agree to such assertion. It would also be inappropriate for this Court to merely look at the decree and declare that the observation made in Ext.P4 is bad, without verifying the identity of the properties which are the subject of the decree and Ext.P4. Further if Ext.P4 is not to be operated upon how the observation would affect the decree

passed by the Civil Court is a moot question.

In such circumstance, the writ petition would stand dismissed.

Sd/-
K.VINOD CHANDRAN,
Judge

jma //true copy//

P.A to Judge