

**IN THE COURT OF THE MUNSIFF, HARIPAD****Present: Sri. Doney Thomas Varghese , B.A.LL.B(Hons:).Munsiff**Wednesday 27<sup>th</sup> September 2017/5<sup>th</sup> Aswina 1939**O.S. No. 80/2017**

(Filed on 10.03.2017)

- Plaintiffs :**
1. Raveendran, aged 65 years,  
S/o Sankunni,  
Thekkepolayil Veettil,  
Kallikkattu Thurayil,  
Arattupuzha Village.
  2. Aneesh, aged 37 years,  
S/o Raveendran of -do-

**By Adv. Sri.R. Aravindakshan**

- Defendants:1.**
1. Shali, aged 50 years,  
S/o Bhaskaran,  
Thekke Polayil Veettil,  
Kallikkadu Thurayil,  
Arattupuzha Village.
  2. Suresh, aged 58 years,  
S/o Sankunni of -do-

**By Adv.Sri.N.Somanathan &  
Adv.Sri.S.Maheswaran Thampi**

This suit having been finally heard on 27.09.2017 and the court on the same day delivered the following:

**JUDGMENT**

Suit for declaration and permanent prohibitory injunction.

2. The averments in the plaint in brief, are as follows:

2<sup>nd</sup> plaintiff is the absolute owner in possession of plaint A schedule property by virtue of settlement deed No:1205/08. Plaint B schedule property belonging to the 2<sup>nd</sup> defendant situates on the north eastern side of plaint A schedule property. Plaint C schedule property belonging to the 3<sup>rd</sup> defendant situates on the south eastern side of plaint B schedule property. Property

belonging to Chandran situated on the eastern side of plot A, B and C schedule properties. Said property was purchased by the 1<sup>st</sup> plaintiff. A public road situated on the eastern side of said property. There exists a way originating from plot A schedule property through plot B schedule property and further towards the land of a person namely Sharngadharan and thereafter through plot C schedule property and further through the land of 1<sup>st</sup> plaintiff to reach the eastern public road. As said Sharngadharan has no objection in using the said way he is not made a party to this suit. Said way running through plot B schedule property is shown as plot D schedule way whereas the way running through plot C schedule is shown as plot E schedule way. There is no other way leading to plot A schedule property other than plot D and E schedule way. Plaintiffs have been using the said way in continuation of their predecessors. In pursuance of an oral agreement to sell plot A schedule property in favour of 1<sup>st</sup> plaintiff he has incurred expenses for gravelling the said road. He has been using the said way peaceably, openly, continuously, as of right, without interruption and as an easement since 30.06.86 and thereby acquired prescriptive right of easement over the said way. Defendants have no manner of right to obstruct the use of the said way. In order to obstruct the said way defendants have instituted a suit as OS 68/17 with false and frivolous allegations and after lodging a caveat they openly declared their plan to obstruct plot D and E schedule way. If the defendants are not restrained from such acts it will result in irreparable loss and injury to the plaintiffs. Hence this suit for declaring the prescriptive right of easement of the plaintiffs over plot D and E schedule way and for a permanent prohibitory injunction

restraining the defendants from obstructing the use of plaint D and E schedule way or from annexing any portion of said way.

3. Though the defendants entered appearance, they failed to file written statement within time permitted or fixed by this court. I am satisfied that no fact which need be proved on account of the deemed admission of the defendants by not filing written statement and as such I am inclined to pronounce judgment against them as provided under Order VIII Rule 10 of the Code of Civil Procedure.

In the result suit is decreed with costs. Prescriptive right of easement of the plaintiffs over plaint D and E schedule way is declared. Permanent prohibitory injunction is granted restraining the defendants from obstructing the use of plaint D and E schedule way by the plaintiffs or from annexing any portion of said way.

*Dictated to the Confl. Asst., transcribed and typed by her, corrected and pronounced by me in open court on this the 27<sup>th</sup> day of September, 2017.*

Sd/-

**DONEY THOMAS VARGHESE  
MUNSIFF**

**Appendix  
NIL**

Id/-  
**MUNSIFF**

**//True copy//**

**MUNSIFF**

Typed by:pcs  
Compd by: