

IN THE COURT OF THE MUNSIFF OF KUTHUPARAMBA

Present:- Smt. Athira Nair., Munsiff.

Friday, the 10th day of April, 2026/ 20th Chaithra, 1947.

ORIGINAL SUIT No.234 OF 2020.

Vimala.V, aged 56 years, W/o Surendran, Idavalath Thazhe Kuniyil House, Patyam amsom Desom, PO.Pathayakkunnu, 670 691 (PIN) Thalassery Taluk, Kannur District]]]]	Plaintiff.
Vs.			
1.	K. Raghavan, about 65 years, No occupation Triveni, Pattyam amsom desom, PO.Pathayakkunnu, Thalassery Taluk, Kannur District]]]]	Defendants.
2.	Sobha, W/o. Raghavan, about 60 years, Triveni, Pattyam amsom desom, P.O. Pathayakkunnu, Thalassery Taluk, Kannur District.]]]]	

This Suit coming on the 6th day of April, 2026 for hearing before me in the presence of Sri.E.Sanil Kumar, Advocate for the Plaintiff ; of S/Sri. N. Premarajan and P. Vijayan, Advocates for the Defendants and having stood over for consideration till this day ; the court delivered the following :

J U D G M E N T

The suit is for a declaration, a permanent prohibitory injunction, and the relief of a mandatory injunction.

2. **Plaintiff's case:-** The plaintiff asserts ownership of the plaint 'A' schedule property, where she and her family reside in a house situated therein. The property in Schedule 'B' of the plaint forms part of a road that originates from the Vettummal - Pathayakkunnu Panchayath Road, runs southward, and connects to the property in Schedule 'A' of the plaint. The initial 20 meters of this road, 6 feet wide, belonged to the

plaintiff's husband. On its eastern side lies a 3-foot-wide pathway, making the total width of the road 9 feet. This road, 20 meters long and 9 feet wide, passes through the defendants' property, then the property of the plaintiff's daughter, thereafter another's property, and finally reaches the property in Schedule 'A' of the plaint.

3. The defendants granted the plaintiff and her family permission to use this road, which amounted to a licence. This permission was granted on 10.10.2019, and in 2019 the plaintiff constructed the road by unloading 10 to 15 loads of mud and several loads of granite metal balls, incurring substantial expenses. In OS 437/2020, a decree was passed in favour of the plaintiff directing the removal of obstructions placed on the property lying south of the plaintiff's husband's property. However, during the pendency of the suit, the defendants constructed a stone wall across the plaint 'B' schedule road on the southern side of their property, thereby obstructing vehicular access to the plaint 'A' schedule property. This obstruction was made after the Commissioner's first inspection report. Consequently, the plaintiff seeks a mandatory inspection and a declaration that the licence granted over the plaint 'B' schedule property is irrevocable.

4. **Defendants' case:-** The defendants in their written statement contend that the suit is not maintainable. They deny that the plaint 'B' schedule property forms part of any road originating from the Vettummal - Pathayakkunnu Panchayath Road, asserting that no such road or property exists. The allegation that there is a 3-foot-wide pathway on the east side of the road, bringing the road to 9 feet in width, is also denied. According to them, there exists a passage cum footpath, exclusively granted to the defendants by their owner, Padmanabhan Master, for

access to their property, which has its own distinct boundaries and identity. The defendants categorically deny having granted the plaintiff permission to use their property as a road and deny the existence of any licence. They further deny that any road was constructed in 2019 or that mud and granite were unloaded for such construction. They maintain that no irrevocable licence was ever granted.

5. The defendants state that on 02.08.2020 they attempted to block the road due to the plaintiff's intervention but failed, and they deny the allegations surrounding this incident. They assert that there is no passage connecting the plaint 'A' schedule property to the Panchayath road through their property. They emphasise that their property measures only 14 Cents, and cutting a road through it would affect their privacy, hence they refused permission. They allege that during the night of 14.03.2020 and 15.03.2020, when no one was present on their property, the plaintiffs cut and removed a Tree and another tree along the eastern section, flattened the surface, and spread granite quarry waste to create a vehicular track from the Panchayath road to their property. This act extended only 6 feet, as a coconut tree still stood there. A car was placed on the plaintiff's property, and when the defendants sought to restore their land, they asked the plaintiff to remove the car, but the plaintiff did not comply. As part of their seasonal soil and cultivation work, the defendants opened the bed of the coconut tree to a circumference of 1.50 metres and a depth of 2 feet, filling it with dry leaves, plants and cowdung. They also cut a trench east-west along the northern side. These acts rendered the alleged vehicle track entirely unfit for vehicular use by July 2020, at which time an Advocate Commissioner inspected the

site. The defendants argue that the claim for an irrevocable licence is legally unsustainable and that the suit should be dismissed.

6. After the suit was instituted, the plaintiff filed a petition alleging that the defendants obstructed the way. The plaint was amended accordingly, and the defendants filed a further written statement contending that the relief sought is barred by limitation, as the alleged obstruction occurred before the suit was filed.

7. **Evidence:-** From the side of the plaintiff, PW1 to PW3 were examined. Exhibits A1 to A11 series, A12, C1 to C4 were marked. From the side of the defendant, DW1 was examined, Exbt. B1, B1(a) to B1(d) were marked.

8. Heard both sides.

9. **Issues arise for consideration:**

1. *Is there any way, as mentioned in the plaint and described in the plaint 'B' schedule?*
2. *Whether plaintiff has any right over plaint 'B' schedule property?*
3. *If yes, whether the plaintiff is entitled to a relief of declaration as prayed for?*
4. *Whether the plaintiff is entitled to a permanent prohibitory injunction as prayed for?*
5. *Whether the suit is barred by the law of limitation?*
6. *Whether the plaintiff is entitled to a relief of mandatory injunction as prayed for?*
7. *Reliefs and costs?*

10. **Issue Nos.1 and 2:-** The plaintiff's case is that the plaint 'A' schedule property belongs to her, and she resides there with her family. Access to this property is through the plaint 'B' schedule property, which she describes as part of a road originating from the Vettummal - Pathayakkunnu Panchayath Road, running southward, and reaching her land. She claims that the initial stretch of the road belonged to her husband, measuring 20 meters in length and 6 feet in width, with an adjoining 3 feet pathway on the east, making the total width 9 feet. According to her, thereafter the road passes through the defendants' property, then her daughter's property, and thereafter reaches the plaint 'A' schedule property. She asserts that the defendants granted her and her family permission on 10.10.2019 to use their property to construct this road, which amounted to a licence, and, pursuant to this permission, she constructed the road in 2019 by unloading mud and granite metal, incurring heavy expenses. She further relies on OS 437/2020, which was decreed in her favour and directed the removal of obstructions south of her husband's property. She alleges that during the pendency of the suit, the defendants constructed a stone wall across the plaintiff's B schedule road, obstructing vehicular access to her property, and that this was done after the Commissioner's first inspection. She therefore seeks mandatory inspection and a declaration that the licence over the plaint 'B' schedule property is irrevocable.

11. The defendants, in their written statement, deny the existence of any such road or pathway as described by the plaintiff. They contend that the alleged 3-foot passage is in fact a footpath exclusively granted to them by its owner, Padmanabhan Master, with its own boundaries and identity. They deny granting any permission or licence to the plaintiff,

and deny that any road was constructed in 2019 or that mud and granite were unloaded. They assert that their property measures only 14 Cents, and that cutting a road through it would affect their privacy, hence they refused permission. They allege that on the nights of 14.03.2020 and 15.03.2020, the plaintiff unlawfully cut and removed trees along the eastern section of their property, flattened the surface, and spread granite quarry waste to create a vehicular track, which extended only 6 feet due to the presence of a coconut tree. They state that when they sought to restore their property, they asked the plaintiff to remove her car, but she refused. They further claim that, as part of their cultivation work, they opened the bed of the coconut tree and cut a trench along the northern side, rendering the alleged track unfit for vehicular use by July 2020, when an Advocate Commissioner inspected the site. They argue that the claim of irrevocable licence is legally unsustainable and that the suit must be dismissed. After the institution of the suit, when the plaint was amended to include allegations of obstruction, the defendants reiterated in their subsequent written statement that the relief sought is barred by limitation, as the alleged obstruction occurred prior to the filing of the suit.

12. The suit seeks a declaration that the plaintiff has obtained an irrevocable licence over the plaint 'B' schedule pathway. The plaintiff has pleaded the existence of a scheduled road but has not herself entered the witness box, nor has any sufficient reason been shown for her abstention. Instead, her daughter was examined as PW1. PW1 deposed that she resides in the plaintiff's house and is well acquainted with the family's affairs. She stated that the plaint 'B' schedule property forms part of a 9 feet wide road, which is only a segment of a longer road commencing

from the Vettummal – Pathayakkunnu Panchayath Road and reaching the plaintiff 'A' schedule property. She further explained that another portion of the road, lying between the Panchayath road and the plaintiff 'B' schedule, belonged to one Murali, and that the plaintiff's husband purchased this portion upon the defendants' assurance that they would permit construction of a road through their property, thereby enabling vehicular access to the plaintiff's land.

13. This version is supported by the first Commissioner's Report marked C1 and the plan marked C2. The plan shows a 2.7-meter-wide road from the Panchayath road up to PW1's property, with the 'B' schedule portion separately identified. The Commissioner reported that a mud road exists, beginning at the Panchayath road on the north and reaching the plaintiff's house on the south, passing through the eastern portion of the defendants' property for a length of 15.2 meters, and thereafter through PW1's property to the plaintiff 'A' schedule property. The portion passing through the defendants' property is described as the plaintiff 'B' schedule. The Commissioner also noted that the entire mud road appears to have been constructed at one time by unloading soil and granite quarry waste, and from its appearance it could be inferred that it was newly created within about ten months prior to inspection. The plaintiff's case is that earlier there was only a 3-foot-wide pathway, and her husband purchased an additional 6 feet of width from Murali with the defendants' permission, thereby constructing the present mud road.

14. The defendants, on the other hand, deny granting any permission or licence and contend that the earlier pathway extended only to their property, not beyond. They dispute the plaintiff's claim of construction through their land. However, the circumstantial evidence,

particularly the Commissioner's Report and Plan, supports the plaintiff's version. The existence of a continuous mud road, constructed at one time, passing through Murali's property, purchased by the plaintiff's husband, and extending into the defendants' property, strongly suggests that such construction was undertaken with the defendants' consent. The oral nature of the licence does not detract from its probability, as the surrounding circumstances and physical features corroborate the plaintiff's case. The only reasonable inference from the evidence is that the defendants permitted the plaintiff to construct the road through their property, thereby granting a licence. The probability of such a licence being granted is thus established.

15. The defendants' plea that an irrevocable licence must necessarily be evidenced by a written and registered document cannot be accepted. The argument proceeds on the footing that an irrevocable licence amounts to a transfer of interest in immovable property, akin to a sale or mortgage, and therefore attracts the mandate of Section 17 of the Registration Act. This contention overlooks the essential distinction between a licence and a transfer of interest. A licence, even when irrevocable, does not create any estate or interest in the property; it merely confers a right to do something on the land of another that would otherwise be unlawful. The irrevocability of such a licence arises not from any conveyance of title but from the circumstances in which it is granted, such as when the licensee has executed works of a permanent character or incurred expenses in reliance upon the licence.

16. The Easement Act itself recognises that a licence may become irrevocable by operation of law when the licensee, acting upon the licence, has altered his position to his detriment. In such cases, the

irrevocability is a matter of equity and circumstance, not of formal conveyance. To insist upon registration would be to confuse the concept of licence with that of transfer of property. The statutory requirement of registration under Section 17 applies to instruments which themselves create, declare, assign, limit or extinguish rights in immovable property. A licence, even when irrevocable, does not fall within that category. It is therefore not necessary that an irrevocable licence be evidenced by a registered document.

17. In the present case, the evidence shows that the plaintiff's husband purchased adjoining land and constructed a road at considerable expense, relying on the defendants' permission. The Commissioner's Report confirms that the road was laid at one time, passing through the defendants' property, and that it was constructed by unloading soil and granite quarry waste. These circumstances make it probable that permission was granted and establish that the plaintiff acted upon it to her detriment. The licence thus became irrevocable by virtue of the plaintiff's reliance and expenditure. The defendants' plea that such irrevocability requires a registered instrument is misconceived and is accordingly rejected.

18. Further, the defendants' contention that contradictions in the plaintiff's evidence regarding the date of construction of the road cut at the root of the case cannot be accepted in the manner urged. It is true that the pleaded case of the plaintiff was that the road was constructed in 2019, while PW1 in her deposition stated that the road was constructed during the COVID period, which in all probability would be after March 2020. Similarly, PW3 stated that he had sold the property in 1999, whereas the documentary evidence before this Court clearly shows

that the sale was effected only in 2020, and the property was purchased by Subisha in that year. The statement of PW3 can therefore only be treated as a mistake in deposition, not as a substantive contradiction.

19. When the counsel for the defendants attacks these discrepancies, it must be noted that the defendant's affidavit in examination-in-chief stated that the road was constructed during the rainy season, in the Malayalam month of Karkkidakam, which again differs from the pleaded case. Their pleaded case is that the road was constructed on the night of 14/03/2020 and 15/03/2020. These inconsistencies do show irregularities in the narration of dates. However, the core issue is not the precise date of construction but the existence of the road itself. The Commissioner's Report and Plan, coupled with the physical features observed, establish beyond doubt that the road is in existence and was constructed by unloading soil and granite quarry waste.

20. Thus, while the plaintiff's witnesses may have erred in recalling exact dates, the presence of the road and its continuity through the defendants' property is proved. Courts are not bound to reject a case merely because of minor discrepancies in dates when the substantive fact—the existence of the road—is established. Accordingly, this Court does not delve into the mistakes of the parties regarding dates and accepts the existence of the road as proved. The contradictions are therefore not fatal to the plaintiff's case.

21. In the present case, the plaintiff's husband purchased adjoining land from Murali and constructed a road by depositing several loads of mud and granite quarry waste, thereby converting a waterlogged paddy area into a vehicular passage. This was done on the basis of the

defendants' assurance of permission. The Commissioner's Report confirms that the road was laid at one time, passing through the defendants' property, and that it was constructed at considerable expense. These circumstances clearly establish that the plaintiff acted upon the defendants' permission to her detriment. Equity therefore steps in to protect the plaintiff, rendering the licence irrevocable.

22. Accordingly, the plea of the defendants that an irrevocable licence requires a registered instrument is rejected. The facts and circumstances of the case positively establish that the plaintiff has acquired an irrevocable licence to construct and use the road through the defendants' property.

Issue Nos.1 & 2 are found in favour of the plaintiff.

23. **Issue No.3:-** The plaintiff has established, through circumstantial evidence and the Commissioner's Report, that the road was constructed with the defendants' permission and at considerable expense. The purchase of Murali's property, in continuation of the road, was also made on the basis of that permission. These facts make it probable that a licence exists, and equity renders it irrevocable once the plaintiff altered her position to her detriment. Therefore, the plaintiff is entitled to a declaration that she holds an irrevocable licence over the plaint 'B' schedule property.

24. **Issue No.4:-** The plaintiff seeks to restrain the defendants from obstructing the use of the road. The Commissioner's Report confirms the existence of the mud road and its use as vehicular access. Since the licence is irrevocable, the defendants cannot lawfully interfere with its enjoyment. The plaintiff is therefore entitled to a permanent prohibitory

injunction restraining the defendants from creating obstruction or denying access through the plaint B schedule property.

The issue is found in favour of the plaintiff.

25. **Issue No.5:-** The defendants argue that the suit for mandatory injunction is barred by the law of limitation, contending that the obstruction occurred more than five years before the suit was amended to incorporate the prayer. The original suit was for a permanent prohibitory injunction. An ad-interim injunction was granted. According to the plaintiff, in violation of the interim order, the respondent caused obstruction by constructing a stone wall. The plaintiff filed a violation application and also sought an interim mandatory injunction. The interim mandatory injunction was allowed and confirmed on appeal. When the matter was taken up before the Hon'ble High Court of Kerala by the defendant, the Hon'ble High Court of Kerala disposed of the matter with an order of time-bound disposal. When a time-bound disposal order was passed by the Hon'ble High Court of Kerala, in the absence of execution of the temporary mandatory injunction, a prayer for mandatory injunction was incorporated. The defendants argue that such an amendment, after five years, is barred by limitation. However, the defendants cannot be permitted to take advantage of their own violative act. Though the date is disputed, they admit that they constructed the wall. The relief of mandatory injunction is only consequential relief arising out of the alleged violation of the interim order. Incorporation of such a prayer does not change the nature of the suit but only seeks to enforce the existing injunction. In such circumstances, the plea of limitation cannot succeed. The suit is not barred by the law of limitation.

The issue is found in favour of the plaintiff.

26. **Issue No.6:-** The plaintiff has sought a mandatory injunction to remove the obstruction created by the defendants. The evidence shows that a stone wall was constructed across the 'B' schedule property, obstructing vehicular passage. Since the plaintiff has established her right of irrevocable licence, the obstruction amounts to unlawful interference. Equity and justice demand restoration of the road to its original condition. The plaintiff is therefore entitled to a mandatory injunction directing the removal of the obstruction and restoration of access.

The issue is found in favour of the plaintiff.

27. **Issue No.7:-** Considering the facts of this case, this Court is of the view that the plaintiff is entitled to recover her costs of litigation from the defendants.

In the result, suit is decreed as follows:

1. It is hereby declared that the plaintiff has obtained an irrevocable licence over the plaintiff's 'B' schedule property for the purpose of constructing and using the road as vehicular access to the plaint 'A' schedule property.
2. The defendants are permanently restrained by way of prohibitory injunction from obstructing or interfering with the plaintiff's enjoyment of the licence and the use of the property in the plaint 'B' schedule as a road.
3. The defendants are directed, by way of mandatory injunction, to remove the stone wall and any other obstruction erected across the plaint 'B' schedule property, thereby restoring vehicular access to the plaint 'A' schedule property within 2 months of the

date of this judgment, failing which the plaintiff is entitled to execute the same by such means as are known to Law.

4. The plaintiff is entitled to the costs of the suit.

(Dictated to Adalat-AI, arranged in proper form by Confidential Assistant, corrected and pronounced by me in open court on this day, the 10th day of April 2026).

Sd/-
MUNSIFF

Appendix:-

Plaintiff's Witnesses:-

PW1 : Smt. Subisha. V.

PW2 : Sri. T. Prakasan.

PW3 : Sri. Sajith. K.

Plaintiff's Exhibits:-

A1.	24-02-1999	Document No.537/1999 of SRO Kadirur.
A2.	10-10-2019	Document No.1795/2019 of SRO Kadirur.
A3.	20-06-2020	Document No.608/2020 of SRO Kadirur.
A4.	07-09-2023	Document No.1662/2023 of SRO Kadirur.
A5.	19-11-2020	Certified copy of Common Judgment in CMA.18/2020 and 19/2020 of Addl. Sub Court, Thalassery.
A6.	26-11-2021	Certified copy of Commission Report in OS.437/2020 of Munsiff's Court, Kuthuparamba.
A7.	26-11-2021	Certified copy of Plan in OS.437/2020 of Munsiff's Court, Kuthuparamba.
A8.	10-02-2022	Certified copy of Judgment in OS.437/2020 of Munsiff's Court, Kuthuparamba.
A9.	10-02-2022	Certified copy of Decree in OS.437/2020 of Munsiff's Court, Kuthuparamba.
A10.	04-09-2022	Certified copy of petition in EP426/2022 in OS.437/2020 of Munsiff's Court, Kuthuparamba.

A11.	--	Photograph
A11(a).	--	Photograph
A11(b).	--	Photograph
A11(c).	--	Photograph
A11(d).	--	Photograph
A11(e).	--	Photograph
A12.	--	Compact Disc

Defendant's Witnesses:-

DW1 : Sri. K.V. Raghavan.

Defendant's Exhibits:-

B1.	--	Photograph
B1(a).	--	Photograph
B1(b).	--	Photograph
B1(c).	--	Photograph
B1(d).	--	Photograph

Court Exhibits:-

C1.	18-08-2020	Report submitted by Sri. K.K.Chithran, Advocate Commissioner in the above matter.
C2.	18-08-2020	Plan submitted by Sri. K.K.Chithran, Advocate Commissioner in the above matter.
C3.	27-01-2026	Revised Report submitted by Sri. K.K.Chithran, Advocate Commissioner in the above matter.
C4.	27-01-2026	Plan submitted by Sri. K.K.Chithran, Advocate Commissioner in the above matter.

Sd/-
MUNSIFF

Fair/Copy of Judgment
in OS No.234/2020.
Dated : 10-04-2026.