

IN THE COURT OF THE MUNSIFF OF CHAVAKKAD

Present: Sri: Krishnakumar K., B.A., LL.B., Munsiff

Saturday, the 5th day of October 2019/13th Aswina 1941 SE

OS 166/2017

Plaintiff:-

Malu, Aged 76 Yrs., W/o Kareparambil Purushothaman, Valappad Village, Kazhimbram Desom, Chavakkad Taluk.

(By Advs. C.N. Somasekharan & C. Rajagopalan)

Defendants:-

- 1. Gopinathan, Aged 50 Yrs., S/o Vazhappully Sankaranarayanan, Valappad Village, Kazhimbram desom, Chavakkad Taluk.**
- 2. Venugopalan, Aged 48 Yrs., S/o Vazhappully Sankaranaraynan,
-do-**

(No Vakalath)

This suit is coming on this day for hearing, the court delivered the following:-

J U D G M E N T

Suit is one for permanent prohibitory injunction.

2. The gist of the case of the plaintiff is as follows:- Plaintiff A schedule property was purchased by husband of plaintiff Purushothaman as per registered deed 2025/1991 of S.R.O., Thriprayar. Purushothaman died. Thereafter the right over the property devolved upon the plaintiff and her children. The plaintiff is managing the property for and on behalf of her

children. There is clear boundary for the plaintiff schedule property. The defendants are residing in a property on the southern side of the plaintiff schedule property. Along the southern side of plaintiff A schedule property there is a way having 12 feet width. The said way is being used by the plaintiff to reach the plaintiff A schedule property. The defendants and other neighbours are also using the said way. The said way is shown as plaintiff B schedule property. The plaintiff A schedule as well as B schedule property was earlier belonging to the same person. Thus plaintiff has got easement of necessity as well as easement of prescription over the said property. The defendants have absolutely no right to obstruct the said way. The defendants attempted to obstruct the B schedule way. Hence this suit.

3. Though defendants entered appearance no written statement was filed.

4. The plaintiff was got examined as Pw1. Exts.A1 and A2 were marked.

5. Heard the counsel for the plaintiff.

6. Though the plaintiff claimed right of easement of necessity as well as easement by prescription over plaintiff B schedule property she confined her right over the said property one of easement by prescription at the time of evidence.

7. The unchallenged testimony of Pw1 clubbed with Exts.A1 and A2 established the case of the plaintiff. Hence the suit liable to be decreed.

In the result, the suit is decreed as follows:-

1. **The defendants and their men are restrained by way of permanent prohibitory injunction from obstructing the plaintiff or her family members from using the plaint B schedule property as a motorable way or from causing any obstruction to the plaint B schedule property.**
2. **Defendants are liable to pay costs to the plaintiff.**

(Pronounced by me in open court, on this the 5th day of October, 2019)

Munsiff, Chavakkad.

APPENDIX

Plaintiff's Evidence:-

PW1 - 24/09/2019 - Malu

Plaintiff's Exhibits:-

**A1 - 05/12/1991 - Theer Deed No. 2025/1991 SRO Thriprayar.
A2 - 19/04/2016 - Original Tax receipt.**

Other Exhibits and Witnesses: - Nil

Munsiff, Chavakkad

O.S.166/2017
Dated : 05/10/2019