

**Paravur District Court Bar Association Vs. State of Kerala**

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**Court :** Kerala

**Decided On :** Jan-15-2013

**Judge :** Honourable Mr.Justice S.Siri Jagan

**Appellant :** Paravur District Court Bar Association

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.SIRI JAGAN TUESDAY, THE 15TH DAY OF JANUARY 2013 25TH POU SHA 193 WP(C).No. 22911 of 2007 (C)

----- PETITIONER(S): ----- THE PARAVUR DISTRICT COURT BAR ASSOCIATION, REG.NO.BCK/9/81,NORTH PARAVUR ERNAKULAM DISTRICT REPRESENTED BY ITS PRESIDENT K.P.SOMASUNDARAN NAIR. BY ADVS.SRI.M.K.DAMODARAN (SR.) SRI.P.K.VIJAYAMOCHANAN SRI.GILBERT GEORGE CORREYA RESPONDENT(S): ----- 1. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT,REVENUE DEPARTMENT GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, ERNAKULAM, CIVIL STATION,KAKKANAD.

3. THE TAHSILDAR, PARAVUR.

4. THE VILLAGE OFFICER, PARAVUR VILLAGE, PARAVUR. BY SR. GOVERNMENT PLEADER SMT. ANITHA RAVINDRAN THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15-01-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 22911 of 2007 (C) APPENDIX PETITIONER'S EXHIBITS EXT.P1: TRUE COPY OF THE PHOTOGRAPH OF THE MEMORIAL STONE ON THE INAUGURATION OF THE BAR ASSOCIATION HALL ON 9.6.1954. EXT.P2: TRUE COPY OF THE PHOTOGRAPH SHOWING THE BAR ASSOCIATION BUILDING EXT.P3:TRUE COPY OF THE APPLICATION DATED 1 4.1997 UNDER THE LAND ASSIGNMENT ACT EXT.P4: TRUE COPY OF THE COMMUNICATION NO.C1-6283-97 DATED 25 8.1998 OF THE 3RD RESPONDENT TO THE REVENUE DIVISIONAL OFFICER EXT.P5 TRUE COPY OF THE COMMUNICATION NO.K.DIS-5170-98-J DATED 13 10.1998 FROM THE REVENUE DIVISIONAL OFFICER TO THE DISTRICT COLLECTOR, ERNAKULAM EXT.P6 TRUE COPY OF THE COMMUNICATION NO.L2-17919/98 DATED 15 2.2000 FROM THE 2ND RESPONDENT TO THE 1ST RESPONDENT EXT.P7 TRUE COPY OF ASSIGNMENT ORDER NO.B1-5283/97 DATED 8 3.2001 OF THE 3RD RESPONDENT EXT.P8 TRUE COPY OF THE REPRESENTATION OF THE PETITIONER DATED 17 3.2001 BEFORE THE 1ST RESPONDENT EXT.P9 TRUE COPY OF THE NOTICE NO.D1-5038/07 DATED 3 7.2007 OF THE 3RD RESPONDENT UNDER SECTION 1 OF THE KERALA LAND CONSERVANCY ACT EXT.P10 TRUE COPY OF THE EXPLANATION DATED 11 7.2007 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT TO EXT.P9 NOTICE EXT.P11 TRUE COPY OF ORDER NO.D1-5038/07 DATED 18 7.2007 OF THE 3RD RESPONDENT EXT.P12 TRUE COPY OF THE ORDER NO.D1-5038/07 DATED 18 7.2007 OF THE 3RD RESPONDENT RESPONDENTS' EXHIBITS : NIL //True copy// P.A. TO JUDGE Shg/ S. SIRI JAGAN, J.

----- W.P. (C) No.22911 of 2007 -----  
----- Dated this the 15th day of January, 2013

JUDGMENT

The Paravur District Court Bar Association is the petitioner herein. They are occupying Government land from 1953, in which, they have constructed a building to house the Bar Association as early as in 1954, which is adjacent to the District Court building. They have spent large amounts of money to construct the said building. The building was renovated in 2005 and the local M.L.A had contributed from his Local Area Development Fund for completing the construction and to establish a library for the Bar Association in the said building. Everything was done with the administrative sanction of the 2nd respondent- District Collector on a proposal from the local M.L.A. The construction was through the District Rural Development Agency. The petitioner submits that the Bar Association is part and parcel of the machinery for administration of W.P. (C) No.22911 of 2007 -2- justice and it cannot be separated from the judiciary as such. Therefore, it is the bounden duty of the Government to see that appropriate accommodation is provided for the Bar Association in the court premises itself, without which, there cannot be an effective Bar in a court. Without an effective Bar judiciary cannot function properly. But the Tahsildar has now initiated proceedings to evict the petitioner from the property in question on the ground that the property is Government land. Ext.P9 notice has been issued directing the petitioner to show cause why the petitioner should not be evicted from the property in question. It was followed by Ext.P12 also. It is under the above circumstances, the petitioner has filed this writ petition seeking the following reliefs: (i) to issue a writ of certiorari quashing Exts.P11 and P12 and all further proceedings pursuant thereto; (ii) to declare that after allowing the petitioner to occupy the premises with implied consent by the Government uninterruptedly from 1954, the respondents are estopped from evicting the petitioner from the premises by resort to the provisions under the Kerala Land Conservancy Act, 1957; (iii) to issue a writ, order or appropriate direction directing W.P. (C) No.22911 of 2007 -3- the 1st respondent to consider Ext.P8 praying to waive the insurances for remittance of market value of the land for assignment of the land applied for by the petitioner Bar Association;" 2. A counter affidavit has been filed by the 3rd respondent taking the stand that the property in question is Government land and although the petitioner was directed to pay land value for assignment of the building, the petitioner has not paid the land value, which has now cascaded into Rs.10,00,286/-, without paying which, the petitioner cannot be

allowed to occupy the building further.

3. The learned counsel for the petitioner points out that the petitioner has already filed Ext.P8 representation before the 1st respondent to waive the demand for land value insofar as the Bar Association is also part and parcel of judicial process and for the effective dispensation of justice to the people of the State a strong Bar is an essential concomitant. Therefore, without passing orders on Ext.P8, no order of eviction can be passed by the 3rd respondent, is the contention raised. W.P. (C) No.22911 of 2007 -4- 4. I have considered the rival contentions in detail.

5. The petitioner-Association has been in possession of the property in question from 1953 onwards. They have constructed a building thereon in 1954 and they are in occupation of the same ever since. The Revenue authorities are perfectly aware of the fact that the Bar Association is in possession and enjoyment of the property ever since 1953. For effective dispensation of justice, a strong and effective Bar is absolutely essential. In fact in almost all court premises, associations of advocates are permitted to occupy buildings without payment of land value. This is clear from the fact that in every court premises provision is made for housing the Bar Association. Dispensation of justice through courts is a mandatory constitutional duty of the State. It is the bounden duty of the State to provide all paraphernalia for effective dispensation of justice. When a strong and effective Bar is an indispensable part of the administration of justice, the Government cannot simply shut their eyes to the needs of the Bar Association. When in W.P. (C) No.22911 of 2007 -5- almost all court premises Bar Associations are permitted to occupy Government land without paying for the same, it is arbitrary and discriminatory to deny the Paravur District Court Bar Association the same benefit. In the above circumstances, I am of opinion that the matter should gain the attention of the 1st respondent. For enabling the 1st respondent to consider the matter, the petitioner has already submitted Ext.P8 petition. In the above circumstances, it is only appropriate that the 1st respondent considers Ext.P8 petition appropriately in accordance with the observations made by me hereinbefore. Such an exercise shall be undertaken and completed, as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment. If Ext.P8 cannot now be traced in the office of the 1st

respondent, such exercise shall be carried out on the basis of Ext.P8 available in the paper book of the writ petition. To enable the 1st respondent to comply with the above directions, the petitioner shall forward a copy of the W.P. (C) No.22911 of 2007 -6- writ petition containing Ext.P8, along with a certified copy of this judgment to the 1st respondent. Needless to say, the petitioner shall be afforded an opportunity of being heard before passing orders as directed above. Till then, further proceedings pursuant to the impugned order shall be proceeded with. The writ petition is disposed of as above. Sd/- S. SIRI JAGAN JUDGE //True copy//  
P.A. TO JUDGE shg/

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