

Bhaskaran Vs. the State of Kerala

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Court : Kerala

Decided On : Jul-31-2013

Judge : Honourable Mr.Justice S.Siri Jagan

Appellant : Bhaskaran

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.SIRI JAGAN & THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN WEDNESDAY, THE 31ST DAY OF JULY 2013 9TH SRAVANA, 1935 WP(C).No. 25759 of 2012 (T) -----

PETITIONER: ----- BHASKARAN, S/O.MARASSERY NANU, VELUTHIRUTHY DESOM CHOWANNUR VILLAGE DESOM, TALAPPILLY TALUK. BY ADVS.SRI.G.SREEKUMAR (CHELUR) SMT.PREETHY KARUNAKARAN SRI.K.RAVI (PARIYARATH) RESPONDENTS: ----- 1. THE STATE OF KERALA REP. BY THE SECRETARY TO THE GOVT. HOME DEPARTMENT GOVT. SECRETARIAT, THIRUVANANTHAPURAM-695001.

2. THE CIRCLE INSPECTOR OF POLICE KANNAMKULAM POLICE STATION THRISSUR DISTRICT-680503.

3. THE SUB INSPECTOR OF POLICE KUNNAMKULAM POLICE STATION THRISSUR DISTRICT-680503.

4. SREEDHARAN S/O.MARASSERY NANU, VELUTHIRUTHY DESOM CHOWANNUR VILLAGE DESOM, TALAPPILLY TALUK-680503. R1 TO R3 BY SENIOR GOVERNMENT PLEADER SRI.P.A.MUHAMMED SHAH R4 BY ADV. SRI.C.A.CHACKO THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31-07-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: VK WP(C).No. 25759 of 2012 (T) ----- APPENDIX ----- PETITIONER(S) EXHIBITS ----- EXHIBIT P1: TRUE COPY OF THE JUDGMENT IN RP NO.821 OF 0.IN WP(C) NO.37275 OF 0.DATED 15 9/08 OF THIS HON'BLE COURT. EXHIBIT P2: TRUE COPY OF THE ORDER PASSED IN EP NO.1 OF 0.IN EP NO.6 OF 9.IN OS NO.40 OF 7.DATED 6 1/2010 ON THE FILE OF THE MUNSIF COURT, WADAKKANCHERRY. EXHIBIT P3: TRUE COPY OF THE COMPLAINT OF THE PETITIONER BEFORE THE THIRD RESPONDENT DATED 21 10/2012 RESPONDENTS' EXHIBITS : NIL ----- / TRUE COPY / P.A. TO JUDGE VK S.SIRI JAGAN & K.RAMAKRISHNAN, JJ.

----- W.P.(C).No.25759 of 2012
----- Dated this the 31st day of July,
2013

JUDGMENT

S. Siri Jagan, J.

The petitioner is the brother of the 4th respondent. For the last about 35 years, they are fighting with each other for a piece of property to which both of them were entitled to. Ultimately, the property was partitioned through court and both of them were given their shares delivered through court. The matter has been finally concluded by a Judgment of the Hon'ble Supreme Court. But, still the dispute between the parties goes on. Although, this court referred the parties to mediation, the mediator was not able to settle the dispute. The petitioner complains that the 4th respondent is threatening the life and property of the petitioner. It is under the above circumstances, the petitioner has filed this writ petition, seeking the following reliefs: i) issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents 2 and 3 to provide sufficient and adequate

police protection to the life and property of the petitioner, and his family members against the threat caused by the 4th respondent, to protect the right of the petitioner as recognised in Exts.P1 and P2 in the interest of justice. W.P.(C).No.25759 o

2. ii) issue an appropriate writ, order or direction commanding the respondents 2 and 3 to consider Ext.P3 complaint and to take effective steps based on the same, within such time as may be specified, the the interest of justice. iii) to pass any such or further orders as the petitioner may seek and this Hon'ble court deem fit to grant.

2. The learned counsel for the 4th respondent would, on the strength of a counter affidavit filed, contend that, the 4th respondent is residing in a building situated in that part of the property allotted to the share of the 4th respondent and that the petitioner wants to demolish a portion of the same on the ground that, that portion is in the share allotted to the petitioner which is not correct. It is further submitted that the 4th respondent has never threatened the life of the petitioner. On the other hand, it is the petitioner, who is causing trouble for the 4th respondent by trying to demolish a portion of the building occupied by the 4th respondent, is the contention raised.

3. We have considered the rival contentions in detail.

4. As regards, the rights over the property is W.P.(C).No.25759 o

3. concerned, this court is not inclined to interfere, insofar as, the remedy of the parties lies in approaching the Civil Court for appropriate reliefs. Such disputed questions cannot be decided without taking evidence which this court would not do ordinarily in a writ petition. The 4th respondent has earlier submitted before this court that, he has no intention to cause any threat to the life of the petitioner, which submission has been recorded on 05.04.2013. In the above circumstances, with a direction to respondents 2 and 3 to take appropriate preventive action, if any action contrary to the undertaking given by the 4th respondent is reported by the petitioner and leaving the parties to solve their disputes regarding the property through the Civil Court, this writ petition is disposed of. Sd/- S. Siri Jagan, Judge

Sd/- K. Ramakrishnan, Judge // True Copy // P.A. to Judge ss

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