

Alphonsamma Vs. State of Kerala

Alphonsamma Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/1093264

Court : Kerala

Decided On : Oct-03-2013

Judge : Honourable Mr.Justice S.Siri Jagan

Appellant : Alphonsamma

Respondent : 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 THURSDAY, THE 3D DAY OF OCTOBER 2013 11TH ASWINA, 1935 WP(C).No. 15165 of 2012 (U) ----- PETITIONER : ----- ALPHONSAMMA, AGED 62 YEARS W/O.LATE MARCIL,RANI VILLA NEAR KADINAMKULAM PANCHAYATH, KADINAMKULAM, THIRUVANANTHAPURAM. BY ADVS.SMT.M.A.ZOHRA SRI.B.SATHIQ RESPONDENTS : ----- 1. STATE OF KERALA REPRESENTED BY THE SUPERINTENDENT OF POLICE (RURAL) KURAVANKONAM, THIRUVANANTHAPURAM, PIN-695003.

2. SUB INSPECTOR OF POLICE, KADINAMKULAM POLICE STATION, KADINAMKULAM THIRUVANANTHAPURAM DISTRICT - 695008.

3. NOBLE RAJ, S/O.LATE MARCIL, C/O.ANDREWS, KUZHIVILAKAM MATHA ROAD, FATHIMA CHURCH VALIYATHURA P.O., THIRUVANANTHAPURAM -

695008.

4. SOFIA, W/O.NOBLERAJ, C/O.ANDRES, KUZHIVILAKAM MATHA ROAD, FATHIMA CHURCH VALIYATHURA P.O., THIRUVANANTHAPURAM - 695008. R1 & R2 BY GOVERNMENT PLEADER SRI.SOJAN JAMES R3 & R4 BY ADV. SRI.M.SREEKUMAR THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/10/2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: BP WP(C).No. 15165 of 2012 (U) APPENDIX PETITIONER(S) EXHIBITS EXT.P1: TRUE COPY OF SALE DEED NO.136 OF 1990 OF THE S.R.O. KAZHAKKOOTAM. EXT.P2: TRUE COPY OF JUDGEMENT DATED 21/3/2011 IN WPC.7468/2011. EXT.P3 TRUE COPY OF THE RECEIPT ISSUED BY THE STATE WOMEN'S COMMISSION ON RECEIPT OF THE COMPLAINT. EXT.P4 TRUE COPY OF THE F.I.R. IN CRIME NO.359 OF KADINAMKULAM POLICE STATION. RESPONDENTS' EXHIBITS : EXT.R3(a): COPY OF THE

ORDER

OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-1, ATTINGAL IN MC NO.150/11 DT 9/11/2011. //TRUE COPY// P.A. TO JUDGE BP S. Siri Jagan & K. Ramakrishnan, JJ.

===== W.P(C) No. 15165 of 2012 =====
===== Dated this, the 3rd day of October, 2013.

JUDGMENT

Siri Jagan, J.

The petitioner is a widow. Respondents 3 and 4 are her son and daughter-in-law. The petitioner is residing in her own home purchased by her in 1998. She is residing there from January, 1998 onwards. The son and daughter-in-law started harassing her and torturing her to give her property transferred to them. Therefore, the petitioner filed W.P(C) No. 7468/2011 before this Court and obtained Ext. P2 judgment granting police protection against respondents 3 and 4. Despite the said judgment, respondents 3 and 4 continued to torture the petitioner. Despite filing

complaints before the police, the police did not give to her any assistance. It is under the above circumstances the petitioner has filed this writ petition seeking the following reliefs: "i. To issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents 1 and 2 to give adequate and effective police protection to the petitioner allowing her peaceful residence at her home without the violent acts and manhandling of respondents 3 and 4 by trespassing into her house illegally and torturing her in spite of Ext. P2 judgment of this Honourable court; ii. to issue a writ of mandamus or any other appropriate writ, order or direction, directing respondents 1 and 2 to implement Ext. P2 judgment and to grant police protection to the petitioner from the 4th respondent as well; iii. issue such other and further directions to respondents 1 -:

2. :- and 2 to take prompt action on Ext. P4 so as to prevent the atrocities of respondents 3 and 4 granting social justice to the petitioner and restrain respondents 3 and 4 from their violent acts." 2. This writ petition was filed on 28.6.2012. Then onwards, different Benches of this Court have been passing orders in the matter. This Court has been trying to get the parties to settle the disputes between them once and for ever. Ultimately, respondents 3 and 4 agreed that they will receive Rs. 2 lakhs and leave the place and will not enter the property owned by the petitioner thereafter. Pursuant thereto, this Court directed the petitioner to deposit Rs. 2 lakhs in Court, which has been deposited. Of course, even thereafter, there were allegations that respondents 3 and 4 continued to harass the petitioner, which gave rise to Cont. Case (C) No. 1079/2012, which was closed in view of the settlement between the parties agreeing to withdraw the cases filed by them against each other. It is now submitted that all cases filed by the parties have been withdrawn. Counsel for the 3rd respondent submits that on receipt of Rs. 2 lakhs, they will leave the place and will not enter the property and house of the petitioner. Recording the said submission, this writ petition is disposed of with the following directions: The registry shall disburse the Rs. 2 lakhs deposited by the petitioner to respondents 3 and 4. Thereafter, respondents 3 and 4 shall never enter the property and house in question and shall not in any way harass or do -:

3. :- anything against the peaceful living of the petitioner. If, contrary to the same, respondents 3 and 4 commit anything and any complaint is filed by the petitioner before the 2nd respondent, the 2nd respondent shall take prompt and effective action to see that the petitioner is protected from any harassment from respondents 3 and 4. Sd/- S. Siri Jagan, Judge. Sd/- K. Ramakrishnan, Judge. Tds/

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com