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

Kader Vs. Secretary

Kader Vs. Secretary

SooperKanoon Citation : sooperkanoon.com/1094807

Court : Kerala

Decided On : Sep-27-2013

Judge : Honourable Mr.Justice P.R.Ramachandra Menon

Appellant : Kader

Respondent : Secretary

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN FRIDAY,THE27H DAY OF SEPTEMBER20135TH ASWINA, 1935 OP(C).No. 2214 of 2013 (O) ---------- AGAINST THE

ORDER
/

JUDGMENT
IN OS732013 of MUNSIFF COURT,CHAVAKKAD PETITIONER: ---------- FATHIMA, W/O ABDUL JABBAR, KANNANKILLAKATH HOUSE, POST VADANAPPALLY BEACH, VADANAPPALLY AMSOM, DESOM, CHAVAKKAD TALUK. BY ADV. SRI.RAJIT RESPONDENTS: ---------- 1. ABOOBAKKER, AGED35YEARS, S/O MUHAMMED, PALLITHOTTUNGAL HOUSE, POST VADANAPPALLY BEACH, VADANAPPALLY AMSOM, DESOM, CHAVAKKAD TALUK.

2. FASILA,, AGED28YEARS, W/O ABOOBAKKER, PALLITHOTTUNGAL HOUSE, POST VADANAPPALLY BEACH, VADANAPPALLY AMSOM, DESOM, CHAVAKKAD TALUK. THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON2709-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: OP(C).No. 2214 of 2013 (O) APPENDIX PETITIONER(S)' EXHIBITS: ---------- EXHIBIT P1: COPY OF THE ABOVE PLAINT IN OS NO732013 FILED BY THE RPESPONDENT BEFORE THE MUNSIF COURT, CHAVAKKAD. EXHIBIT P2: COPY OF THE APPLICATION FILED UNDER

ORDER

39RULE1FILED BY THE RESPONDENT. EXHIBIT P3: COPY OF THE INJUNCTION

ORDER

IN IA3882013 IN OS NO732013 OF THE MUNSIFF COURT, CHAVAKKAD. EXHIBIT P4: COPY OF THE COUNTER FILED BY THE PETITIONER DATED3003- 2013. EXHIBIT P5: COPY OF THE REPORT FILED BY THE ADVOCATE COMMISSIONER ALONG THE SKETCH. RESPONDENT(S)' EXHIBITS: NIL ---------- /TRUE COPY/ P.A. TO JUDGE VPV P.N.RAVINDRAN, J.

=-=-=-=-=-=-=-=-=-=-=-= O.P.(C)No.2214 of 2013 =-=-=-=-=-=-=-=-=-=-=-=-= Dated this the 27th day of September, 2013

JUDGMENT

The main relief sought in this original petition filed by the plaintiff in O.S.No.73 of 2013 on the file of the Court of the Munsiff of Chavakkad is for an order directing the trial court to hear and dispose of I.A.No.388 of 2013 in O.S.No.73 of 2013. The respondents are the defendants therein. The petitioner has also prayed for an order directing the trial court to expeditiously try and dispose of the suit.

2. The relief sought in O.S.No.73 of 2013 is for a permanent prohibitory injunction restraining the defendants and their men from trespassing in to the plaint B schedule path way or from altering its physical features or from putting up any

boundary or fence thereon or from causing obstruction to user of the said path way by the plaintiffs. The relief sought in I.A.No.388 of 2013 is for an interim order of injunction restraining the defendants and their men from trespassing into the plaint B schedule path way or from reducing it to their possession or from altering its physical features or from committing acts of waste therein or from putting up any O.P.(C)No.2214 of 2013 2 fence or boundary enclosing it or from interfering with the plaintiff's user of the said path way.

3. Though the respondents have been served, they have not entered appearance and filed objections. Pursuant to the order passed by this Court the Presiding Officer has submitted a report to the effect that pleadings in I.A.No.388 of 2013 are not complete. The Presiding Officer has also reported that on application filed by the petitioner, an Advocate Commissioner was appointed, that the Commissioner has filed his report and that the petitioner has filed an application to remit the Commissioner's plan. The Presiding Officer has also reported that eight months' time is required to hear and dispose of the case.

4. When the original petition came up for hearing today, the learned counsel appearing for the petitioner submitted that reserving liberty with the petitioner to move this Court later seeking expeditious trial and disposal of the suit, the original petition may be disposed of with a direction to the trial court to hear and dispose of I.A.No.388 of 2013 in O.S.No.73 of 2013 expeditiously. The suit and the aforesaid application were filed in the second week of January 2013. It is evident from the report submitted by the Presiding Officer that the defendants have entered appearance. O.P.(C)No.2214 of 2013 3 When the time limit fixed for filing a written statement in the Code of Civil Procedure is 30 days, I find little or no justification in the request made by the Presiding Officer for eight months' time to dispose of the application. I accordingly dispose of the original petition with a direction to the Court of the Munsiff of Chavakkad to hear and dispose of I.A.No.388 of 2013 in O.S.No.73 of 2013, expeditiously and in any event within one month from the date on which the petitioner produces a certified copy of this judgment. Sd/- P.N.RAVINDRAN JUDGE /true copy/ P.A. To JUDGE vpv

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