

Varunni Vs. Ramadas

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Court : Kerala

Decided On : Oct-28-2013

Judge : Honourable Mr.Justice P.N.Ravindran

Appellant : Varunni

Respondent : Ramadas

Judgement :

IN THE HIGH COURT OF KERALAAT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN MONDAY, THE 28TH DAY OF OCTOBER 2013 6TH KARTHIKA, 1935 OP(C).No. 3473 of 2013 (O) ----- (I.A.No.8332/2013 IN OS No.935/2013 OF SUB COURT,THRISSUR) PETITIONER: ----- VARUNNI, S/O.PYLIKKUTTY, THERATTIL HOUSE, PADAVARAD DESOM, OLLUR VILLAGE, THRISSUR TALUK BY ADVS.SRI.K.B.GANGESH SMT.ATHIRAA.MENON RESPONDENT: ----- RAMADAS S/O.BALAN, THOTTIPARAMBIL HOUSE PERUMBILLYSSERRY DESOM, CHOVVUR VILLAGE, THRISSUR BY ADV. SRI.K.S.BHARATHAN THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 28-10-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: OP(C).No. 3473 of 2013 (O) ----- APPENDIX PETITIONER'S' EXHIBITS ----- EXHIBIT P1 TRUE COPY OF THE AGREEMENT DATED 24-08-2012 EXECUTED BETWEEN THE PARTIES EXHIBIT P2 TRUE COPY OF THE PLAINT IN O.S NO 935/2013 EXHIBIT P3 TRUE COPY OF THE I.A NO 7463/2013 IN O.S NO 935/2013 ON THE FILE OF

IIND ADDITIONAL SUB COURT THRISSUR EXHIBIT P4 TRUE COPY OF THE
OBJECTION TO EXHIBIT P3 EXHIBIT P5 TRUE COPY OF THE COMMISSION
REPORT DATED 27.08-2013 FILED IN OS NO 935/2013 ON THE FILE OF IIND
ADDITIONAL SUB COURT, THRISSUR EXHIBIT P6 TRUE COPY OF THE I.A
NO 833/2013 IN O.S NO 935/2013 ON THE FILE OF IIND ADDITIONAL SUB
COURT, THRISSUR RESPONDENT'S EXHIBITS -----
NIL /TRUE COPY/ VPS PA TO JUDGE P.N.RAVINDRAN, J.

----- O.P.(C) No.3473 of 2013 ----- Dated this the
28th day of October, 2013

JUDGMENT

The petitioner is the plaintiff in O.S.No.935 of 2013 on the file of the Court of the Second Additional Subordinate Judge of Thrissur. The respondent is the sole defendant therein. The suit instituted by the petitioner is one for a specific performance of an agreement for sale of Swamy Clay Works. A copy of the said agreement for sale is on record as Ext.P1. Along with the plaint, the petitioner filed I.A.No.7463 of 2013 for an interim order of injunction restraining the defendant from alienating the plaint schedule property or from encumbering it or from creating documents in respect thereof pending disposal of the suit. On that application an ad interim order of injunction was passed and it is still in force. He thereafter filed I.A.No.8332 of 2013 in O.S.No.935 of 2013 (Ext.P6) wherein he has prayed for an interim order of injunction restraining the defendant from removing clay from the land or the machinery from the Swamy Clay Works or from demolishing the buildings therein or from committing acts of waste therein. In this original petition filed under Article 227 of the constitution of India, the petitioner prays for an O.P.(C) No.3473/2013 2 order directing the trial court to hear and dispose of the said application expeditiously. It is stated that though I.A.No.8332 of 2013 was filed on 30.9.2013 and it was taken up for consideration on 4.10.2013 and 29.10.2013, it has not so far been heard and disposed of. The petitioner has averred that unless the application is expeditiously heard and disposed of and in the meanwhile the clay is removed from the plaint schedule property, the relief prayed for in the application would become infructuous.

2. When the original petition came up for hearing before me on 11.10.2013, while admitting the original petition and ordering notice to the respondent, I passed an interim order of injunction restraining the respondent/defendant from removing clay from the plaint schedule property in O.S.No. 935 of 2013.

3. I heard Sri.K.B.Gangesh, learned counsel appearing for the petitioner and Sri.K.S.Bharathan, learned counsel appearing for the respondent. Though the learned counsel on both sides addressed arguments at length on merits, I am of the opinion that the proper course would be to direct the trial court to hear and dispose of I.A.No.8332 of 2013 expeditiously and with a further observation that the interim order passed by this Court was only to preserve the status quo as it obtained on 11.10.2013 so as to prevent I.A.No.8332 of 2013 O.P.(C) No.3473/2013 3 from becoming infructuous. I accordingly dispose of the original petition with a direction to the Court of the Subordinate Judge of Thrissur to hear and dispose of I.A.No.8332 of 2013 expeditiously and in any event within two weeks from 29.10.2013. Registry to issue a certified copy, if applied for today itself. P.N.RAVINDRAN, (JUDGE) vps O.P.(C) No.3473/2013 4 O.P.(C) No.3473/2013 5