

Peethambaran Vs. Sudarsanan

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SooperKanoon Citation : sooperkanoon.com/1099297

Court : Kerala

Decided On : Nov-26-2013

Judge : Honourable Mr.Justice S.Siri Jagan

Appellant : Peethambaran

Respondent : Sudarsanan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.SIRI JAGAN & THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN TUESDAY,THE26H DAY OF NOVEMBER20135TH AGRAHAYANA, 1935 WP(C).No. 25690 of 2013 (I) ----- PETITIONER: ----- PEETHAMBARAN, S/O.KOCHUKRISHNAN,AGED82YEARS, MARUTHIVILA VEEDU, EDATHARA, KARIYAM, KADAKKAL, KOLLAM DISTRICT. BY ADVS.SMT.JEENA JOSEPH, SMT.GISA SUSAN THOMAS, SRI.S.V.SIKHIL MON, SMT.NITHYA PRATHAPAN. RESPONDENTS: ----- 1. SUDARSANAN, S/O.NOT KNOWN, AGED45YEARS, SHIJI MANDIRAM (PANAYAM VEEDU)KARYAM, EDATHARA MURIYIL, KADAKKAL VILLAGE, PIN - 691 536.

2. SUBASH, S/O.MADHAVANASARI,AGED35YEARS, THYIL VEETIL, KARYAM, EDATHARA MURIYIL, KADAKKAL VILLAGE, PIN - 691 536.

3. SOMABAI, W/O.SIVARAJAN, AGED60YEARS, SHIJI MANDIRAM, (PANAYAM VEEDU), KARYAM, EDATHARA MURIYIL, KADAKKAL VILLAGE, PIN - 691 536.

4. SUB INSPECTOR OF POLICE, KADAKKAL POLICE STATION, KADAKKAL, KOLLAM DISTRICT, PIN - 691 536. R1 & R3 BY ADV. SRI.T.S.SHYAM PRASANTH, R2 BY ADV. SRI.SYAM J.SAM, R4 BY STATE ATTORNEY SRI. P. VIJAYARAGHAVAN, GOVERNMENT PLEADER SRI. P. MOHAMMED SHAH. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON2611-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Prv. W.P.(C).NO.25690/2013-I: APPENDIX PETITIONER'S EXHIBITS: EXT.P-1: A TRUE PHOTOCOPY OF THE EXTRACT OF LAND REGISTER AND THE SURVEY PLAN IN SY.NO.370/7 (OLD SY.NO.217/3A) IN KADAKKAL VILLAGE. EXT.P-2: A TRUE PHOTOCOPY OF THE PLAINT IN O.S.NO.510/2013 OF THE MUNSIFF COURT, KOTTARAKKARA FILED BY THE1T RESPONDENT'S FAMILY MEMBERS. EXT.P-3: A TRUE PHOTOCOPY OF THE COMPLAINT FILED BEFORE THE4H RESPONDENT DATED710.2013. EXT.P-4: A TRUE COPY OF THE REPORT DTD. 01/10/2013 OF THE VILLAGE OFFICER, KADAKKAL. RESPONDENTS' EXHIBITS & ANNEXURE: EXT.R1.A: COPY OF THE

ORDER

IN I.A. 4133/13 IN O.S. 510/2013 DTD. 06/09/2013 OF MUNSIFF'S COURT, KOTTARAKARA. EXT.R1.B: COPY OF THE ACKNOWLEDGMENT RECEIPT ISSUED BY THE KADAKKAL POLICE. ANNEXURE R4.A: COPY OF THE STATEMENT GIVEN BY THE PETITIONER TO THE POLICE. //TRUE COPY// P.A. TO JUDGE. Prv. S.SIRI JAGAN & K.RAMAKRISHNAN, JJ.

===== W.P.(C).No. 25690 of 2013 ===== Dated
this the 26th day of November, 2013

JUDGMENT

S.Siri Jagan, J.: The petitioner is an 82 year old man, residing in a house in S.No.370/7 of Kadakkal Village, block No.47, in Kottarakkara Taluk, with his 72 year old wife and their daughter for a long time. According to the petitioner,

respondents 1 and 3 obtained an ex parte injunction order from the Munsiff's Court, Kottarakkara, in O.S.No.510/2013, restraining him from entering into the property in Sy.No.371/19 without disclosing the correct facts, insofar as the property in respect of which, the injunction order was obtained, lies beyond the public road between the two properties and there is no contiguous property belonging to the petitioner and respondents 1 and 3. The petitioner now alleges that respondents 1 and 3 are threatening the life of the petitioner and his family members with the help of the injunction order. Although the petitioner sought police help, the police did not oblige. That is why, the petitioner has filed this writ petition w.p.c.25690/13 - :

2. :- seeking the following relief: "Direct the 4th respondent to grant effective police protection to the life of the petitioner and his family consists of his wife and daughter from the illegal activities of 1st, 2nd and 3rd respondents and their henchmen." 2. Respondents 1 and 3 have filed a counter affidavit denying the allegations of the petitioner.

3. The 4th respondent has filed a statement, in which, it is stated thus: "2. It is respectfully submitted that the petitioner is permanently residing at Edathara, Kadakkal Village along with his family. He is having 47.42 Cents of land in block No.- 47 and Sy.No.370/7 of Kadakkal Village Respondents 1 to 3 are neighbors of the petitioner. There is a pathway leading to the petitioners house having width of 3 metre (Purampokku land) on the southern side of the above respondents residence. The above respondent used to abuse the petitioner using filthy language while the petitioner and his family were passing through the said path way. Therefore the petitioner filed a petition before the taluk office, Kottarakkara for demarcating the said path-way. Thereafter the taluk surveyor visited the property and the property has been demarcated. However, the pathway is a portion of puramboke land. Some portion of the residential building and well of the 3rd respondent is by constructed encroaching a portion of the aforesaid puramboke land.

3. It is respectfully submitted that thereupon the 3rd respondent filed a suit as OS.No.570/2013 before the Hon'ble Munsif Court, Kottarakkara to restrain the

petitioner and his family members from trespassing into the property of the 3rd respondent and for committing waste therein. The Court was pleased to allow the injunction application and accordingly, an interim order of injunction has been granted in favour of the 3rd respondent.

4. It is respectfully submitted that petitions were received from the petitioner against the above named respondent alleging that they were abusing the petitioner. The above petitions were registered as petition No.905/PTN/2013/HI. And 907/PTN/2013/HI). On receiving the above petitions both the parties were summoned and w.p.c.25690/13 - :

3. :- respondents were strictly warned, from indulging in such unlawful activities. Thereafter, there was no complaint from the petitioner that such incident had taken place.

5. It is respectfully submitted that on receiving the petitions this respondent had taken prompt action and the allegation that the 4th respondent was keeping a passive attitude even without making a site inspection is false and hence denied. Main dispute between the parties is with regard to widening of the existing pathway and the matter being a civil dispute, the same is pending before the Hon'ble Munsiff's Court, Kottarakkara. At present there is no threat to the life and property of the petitioner and there is no Law and order issues. If there arise any law and order issue, police shall interfere to maintain law and order. Statement given by the petitioner to the police is produced herewith and marked as Annexure R4(a)." After hearing all parties, we are of opinion that the writ petition can be disposed of recording the statement filed by the 4th respondent. Ordered accordingly. Regarding the disputes in respect of the pathway, the parties are relegated to their civil remedies. Sd/- S.SIRI JAGAN, JUDGE Sd/- sdk+ K.RAMAKRISHNAN, JUDGE ///True copy/// P.A. to Judge w.p.c.25690/13 - :

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