

Radhika Ajithkumar Vs. Dileepkumar

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SooperKanoon Citation : sooperkanoon.com/1125742

Court : Kerala

Decided On : Feb-04-2014

Judge : Honourable Mr.Justice V.Chitambaresh

Appellant : Radhika Ajithkumar

Respondent : Dileepkumar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE
HONOURABLE MR.JUSTICE V.CHITAMBARESH TUESDAY,THE4H DAY OF
FEBRUARY201415TH MAGHA, 1935 OP(C).No. 329 of 2014 (O)
----- AGAINST THE

ORDER

/

JUDGMENT

IN OS2882007 of PRINCIPAL MUNSIF COURT, ERNAKULAM
PETITIONERS/3RD & 4TH RESPONDENTS/3RD JD:-:

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RADHIKA AJITHKUMAR, AGED 38 YEARS W/O. AJITHKUMAR, 14/350, AKHIL
NIVAS ETTUTHAIKKAL, UDAYAMPEROOR P.O., UDAYAMPEROOR.

2. K.B. AJITHKUMAR, AKHIL NIVAS, DO. DO. DO. BY ADVS. SRI. BABU
CHERUKARA SRI. P. A. SALIM SRI. ANZAR BASHEER

SRI.PRATHEUSH.M.ANAND

SRI.P.ANTO

THOMAS

RESPONDENT/D.H/PLAINTIFF:-: -----

P.DILEEPKUMAR,, AGED48YEARS S/O.PADMANABHA MENON, GOKULAM, KARURUTHIL ROAD UDAYAMPEROOR, NOW RESIDING AT14/D3, STAR HOMES CHATHARI, TRIPUNITHURA, PIN - 682 301. BY ADV. SRI.DINESH R. SHENOY THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON0402-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: OP(C).No. 329 of 2014 (O) ----- APPENDIX PETITIONERS EXHIBITS EXT.P1 COPY OF THE PLAINT IN O.S NO.288/2007 DATED83-2007 OF THE MUNSIF COURT,ERNAKULAM EXT.P2 COPY OF THE WRITTEN STATEMENT IN O.S. NO.288/2007 OF MUNSIF COURT, ERNAKULAM EXT.P3 ADDITIONAL WRITTEN STATEMENT IN O.S. NO.288/2007 DATED141-2010 EXT.P4 PHOTOSTAT OF DECREE PASSED IN O.S. NO.288/2007 DATED2312-2011 EXT.P5 PHOTOSTAT OF EXECUTION PETITION NUMBERED AS E.P NO.104/2012 IN O.S. NO.288/2007 DATED2512-12 OF THE MUNSIF COURT,ERNAKULAM EXT.P6 COPY OF THE DOCUMENT NO.2068/1997 OF TRIPUNITHURA SUB REGISTRY DATED78-19897 EXT.P7 COPY OF THE DOCUMENT NO.975/1997 OF THE TRIPUNITHURA SUB REGISTRY DATED94-1997 EXT.P9 COPY OF THE DOCUMENT NO.47/2009 OF the TRIPUNITHURA SUB REGISTRY DATED81-2009 EXT.P10 COPY OF THE

JUDGMENT

IN RSA NO.1353/2012 DATED1211-2012 EXT.P11 COPY OF THE CORRECTION DEED NO.3631/2012 OF TRIPUNITHURA SUB REGISTRY DATED1711-2012 EXT.P12 COPY OF THE PLAINT IN O.S. NO.939/2012 OF THE SUB COURT, ERNAKULAM DATED2311-2012 EXT.P13 COPY OF THE COMMISSION REPORT IN O.S. NO.939/2012 OF THE SUB COURT,ERNAKULAM IN I.A. NO.6574/2012 DATED2811-2012 EXT.P14 COPY OF THE

JUDGMENT

IN O.P.C NO.4301/2012 DATED1212-2012 EXT.P15 COPY OF THE WRITTEN STATEMENT IN O.S. NO.939/2012 DATED211-2013 OP(C).No. 329 of 2014 (O) ----- EXT.P16 COPY of the WRITTEN STATEMENT FILED BY

THE2D DEFENDANT IN O.S. NO.939/2012 OF THE SUB COURT ERNAKULAM,DATED182-2013 EXT.P17 COPY OF THE COMMISSION APPLICATION FILED BY THE IST PETITIONER FOR SURVEY AS PER I.A. NO.6653/2012 DATED2811-2012 . EXT.P18 COPY OF THE COMMON

ORDER

DATED215-2013 IN E.A NO.98/2013 AND992013 OF PRINCIPAL MUNSIFF COURT, ERNAKULAM EXT.P19 COPY OF THE COMMON

ORDER

IN E.A NOS. 188/2013 AND5282013 DATED71-2014 EXT.P20 COPY OF THE REPORT AND SKETCH DATED301-2014 IN O.S NO.939/2012 OF THE SUB COURT,ERNAKULAM RESPONDENTS EXHIBITS NIL TRUE COPY P.A TO JUDGE SMM V.CHITAMBARESH,J.

= = = = = O.P.(C) No.329 of 2014 = = = = =
Dated this the 4th day of February, 2014

JUDGMENT

The court below has by the orders impugned permitted the decree holder to reconstruct the eastern boundary wall exactly on the same place where it now exists with granite foundation and cement brick. The same has been directed to be done by the Amin under the supervision of the Advocate Commissioner who was deputed in the suit even. The police was also directed to give necessary police aid to execute the decree for injunction which has become final in RSA No.1353/2012.

2. It is pointed out that the petitioners were unsuccessful in injuncting the decree holders from executing the decree in O.S No. 288/2007 even though motions were made in O.S No.939/2012. Added to this is the fact that this Court has in original petitions filed thereafter permitted the decree holder to execute the decree for injunction in O.S No.288/2007 by permissible mode. The orders impugned call for no interference and the Original Petition is dismissed. This will not affect O.S O.P.(C) No.329 of 2014 2 No.939/2012 pending or any other suit proposed to be filed on the basis of easement by necessity. V.CHITAMBARESH JUDGE smm

