

Padmini Vs. Babu @ Babukuttan

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Court : Kerala

Decided On : Feb-17-2014

Judge : Honourable Mr.Justice V.Chitambaresh

Appellant : Padmini

Respondent : Babu @ Babukuttan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.CHITAMBARESH MONDAY,THE17H DAY OF FEBRUARY201428TH MAGHA, 1935 OP(C).No. 492 of 2014 (O) ----- [AGAINST THE

ORDER

DTD. 06/01/2014 IN I.A. NO. 440 OF 2013 IN A.S. NO.8/13 ON THE FILES OF THE SUB COURT, KARUNAGAPALLY] PETITIONERS/RESPONDENTS1TO9 PLAINTIFFS:

----- 1. PADMINI, W/O.THE LATE SRI.THYGARAJAN,AGED68YEARS, KOLLARAZHIKATHU VEEDU, NADUVATHU CHERRY, THEKKUMBHAGOM VILLAGE, CHAVARA SOUTH P.O., KOLLAM DISTRICT.

2. RANI, W/O.SREEJITH, AGED42YEARS, KOLLARAZHIKATHU VEEDU, NADUVATHU CHERRY, THEKKUMBHAGOM VILLAGE, NOW RESIDING AT

SREE NIKETHAN, MEENATHU CHERRY, SAKTHIKULANGARA VILLAGE, KAVANAD P.O, KOLLAM DISTRICT.

3. SMITHA, W/O. VINOD, AGED 39 YEARS, KOLLARAZHIKATHU VEEDU, NADUVATHU CHERRY, THEKKUMBHAGOM VILLAGE, NOW RESIDING AT PAROOR HOUSE, PATHIYOOR WEST CHERRY, PATHIYOOR VILLAGE, KAREELAKULANGARA P.O., ALAPPUZHA DISTRICT.

4. K.K. SUBHADRA, W/O. THE LATE SRI. SAMBASIVAN, AGED 70 YEARS, SAHITHY NIVAS, KAIKULANGARA NORTH WARD, KOLLAM WEST VILLAGE KOLLAM DISTRICT.

5. VASANTHA KUMAR, S/O. THE LATE SRI. SAMBASIVAN, AGED 53 YEARS, SAHITHY NIVAS, KAIKULANGARA NORTH WARD, KOLLAM WEST VILLAGE, KOLLAM DISTRICT.

6. PRASANTH KUMAR, S/O. THE LATE SRI. SAMBASIVAN, AGED 50 YEARS, SAHITHY NIVAS, KAIKULANGARA NORTH WARD, KOLLAM WEST VILLAGE, KOLLAM DISTRICT.

7. JESUS KUMAR, S/O. THE LATE SRI. SAMBASIVAN, AGED 47 YEARS, SAHITHY NIVAS, KAIKULANGARA NORTH WARD, KOLLAM WEST VILLAGE, KOLLAM DISTRICT. Prv. O.P.(C).NO.492/2014-O:

8. JINARAJ KUMAR, S/O. THE LATE SRI. SAMBASIVAN, AGED 45 YEARS, SAHITHY NIVAS, KAIKULANGARA NORTH WARD, KOLLAM WEST VILLAGE, KOLLAM DISTRICT.

9. ISWARYA SAMRUDH, D/O. THE LATE SRI. SAMBASIVAN, AGED 31 YEARS, SAHITHY NIVAS, KAIKULANGARA NORTH WARD, KOLLAM WEST VILLAGE, KOLLAM DISTRICT. BY ADV. SRI. R. NIKHIL. RESPONDENTS/APPELLANTS/DEFENDANTS 1 TO 4

----- 1. BABU @ BABUKUTTAN, S/O. KUMARAN, AGED 56 YEARS, KOCHU MELOOTTU VEEDU, NADUVATHU CHERRY, THEKKUMBHAGOM VILLAGE, KARUNAGAPPALLY TALUK, CHAVARA SOUTH P.O., KOLLAM DISTRICT-691 584.

2. THULASI MANI,D/O.KUMARAN, AGED67YEARS, KOCHU MELOOTTU VEEDU, NADUVATHU CHERRY, THEKKUMBHAGOM VILLAGE, KARUNAGAPALLY TALUK, CHAVARA SOUTH P.O., KOLLAM DISTRICT-691 584.

3. THANKAMANI,D/O.KUMARAN, AGED65YEARS, KOCHU MELOOTTU VEEDU, NADUVATHU CHERRY, THEKKUMBHAGOM VILLAGE, KARUNAGAPALLY TALUK, CHAVARA SOUTH P.O., KOLLAM DISTRICT-691 584.

4. AKASH, S/O.THANKAMANI,AGED24YEARS, KOCHU MELOOTTU VEEDU, NADUVATHU CHERRY, THEKKUMBHAGOM VILLAGE, KARUNAGAPPALLY TALUK, CHAVARA SOUTH P.O., KOLLAM DISTRICT-691 584. THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON1702-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Prv. O.P.(C).NO.492/2014-O: APPENDIX PETITIONERS' EXHIBITS: EXHIBIT-P1: A TRUE COPY OF THE AWARD OF THE LOK ADALATH IN E.P.NO.193/2007 ON THE FILES OF THE HON'BLE MUNSIFF'S COURT, KARUNAGAPALLY. EXHIBIT-P2: A TRUE COPY OF THE PLAINT IN O.S.NO.358/2009 ON THE FILES OF THE HON'BLE MUNSIFF'S COURT, KARUNAGAPALLY. EXHIBIT-P3: A TRUE COPY OF THE WRITTEN STATEMENT ALONG WITH COUNTER CLAIM IN O.S.NO.358/2009 ON THE FILES OF THE HON'BLE MUNSIFF'S COURT, KARUNAGAPALLY. EXHIBIT-P4: A TRUE COPY OF THE REPLICATION AND STATEMENT TO THE COUNTER CLAIM IN O.S.NO.358/2009 ON THE FILES OF THE HON'BLE MUNSIFF'S COURT, KARUNAGAPALLY. EXHIBIT-P5: A TRUE COPY OF THE COMMISSION REPORT AND MAHAZAR IN O.S.NO.358/2009 ON THE FILES OF THE HON'BLE MUNSIFF'S COURT, KARUNAGAPALLY. EXHIBIT-P6: A TRUE COPY OF THE JUDGEMENT DT .21.01.2013 IN O.S.NO.358/2009 ON THE FILES OF THE HON'BLE MUNSIFF'S COURT, KARUNAGAPALLY. EXHIBIT-P7: A TRUE COPY OF I.A.NO.440/2013 IN A.S.NO.8/2013 ON THE FILES OF THE HON'BLE SUB COURT, KARUNAGAPALLY. EXHIBIT-P8: A TRUE COPY OF THE OBJECTION IN I.A.NO.440/2013 IN A.S.NO.8/2013 ON THE FILES OF THE HON'BLE SUB COURT, KARUNAGAPALLY. EXHIBIT-P9: A TRUE COPY OF THE

ORDER

DT.06.01.2014 IN I.A.NO.440/2013 IN A.S.NO.8/2013 ON THE FILES OF THE HON'BLE SUB COURT, KARUNAGAPALLY. RESPONDENTS' EXHIBITS: NIL. //TRUE COPY// P.A. TO JUDGE. Prv. V.CHITAMBARESH,J.

===== O.P.(C) No.492 of 2014 =====
Dated this the 17th day of February, 2014

JUDGMENT

An interim order passed on an application for temporary injunction in an appeal suit arising out of a decree for injunction is impugned. It will be inequitable to interfere at this stage when the entire issue is at large in the application for injunction and in the appeal suit.

2. Interest of justice would be met by directing the court of the Subordinate Judge of Karunagappally to dispose of the application for injunction expeditiously. Every endeavour shall be made to dispose of I.A No.440/2013 in A.S No.8/2013 within a period of two weeks from the date of receipt of a copy of this judgment.

2. I hasten to add that the impugned order does not confer any special right to respondent Nos.1 to 4 other than using the D schedule pathway till orders are passed in I.A No.440/2013. This however shall not involve any demolition of the existing structures till I.A No.440/2013 is disposed of. The Original Petition is disposed of. V.CHITAMBARESH JUDGE smm 2

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