

Ramakrishnan Vs. Gopinathan

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Court : Kerala

Decided On : Feb-25-2014

Judge : Honourable Mr.Justice V.Chitambaresh

Appellant : Ramakrishnan

Respondent : Gopinathan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE
HONOURABLE MR.JUSTICE V.CHITAMBARESH TUESDAY, THE 25TH DAY OF
FEBRUARY 2014 6TH PHALGUNA, 1935 OP(C).No. 579 of 2014 (O)
----- AGAINST THE

ORDER

/

JUDGMENT

IN OS2792013 of PRINCIPAL MUNSIF COURT, CHERTHALA DATED
PETITIONER ----- RAMAKRISHNAN S/O.KOCHUNARAYANAN,
PUTHUVALNIKARTHIL CHENNAMPALLIPURAM MURI, PALLIPURAM VILLAGE
REPRESENTED BY POWER OF ATTORNEY HOLDER RADHAKRISHNAN
S/O.BHASKARAN, AMRUTHALAYAM, CHENNAMPALLIPURAM MURI
PALLIPURAM VILLAGE, ALAPPUZHA DISTRICT. 688 541. BY ADV.
SMT.G.VIDYA RESPONDENT ----- GOPINATHAN

S/O.PADMANABHAN , VELITHEDATHU VADAKKEKARIYIL
CHENNAMPALLIPURAM MURI, PALLIPURAM VILLAFGE ALAPPUZHA
DISTRICT.-688541 THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON2502-2014, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: OP(C).No. 579 of 2014 (O) ----- APPENDIX
PETITIONER(S)' EXHIBITS ----- EXHIBIT P1. COPY OF
THE PLAINT IN OS27913 ON THE FILES OF PRINCIPAL MUNSIF COURT,
CHERTHALA DATED304.13. EXHIBIT P2. COPY OF THE INJUNCTION
PETITION IN CMP NO.282/13 IN OS NO.279/13 DATED304.13. EXHIBIT P3.
COPY OF THE INTERIM

ORDER

GRANTED BY THE COURT BELOW IN CMP NO.282/13 IN CMP NO.280/13
DATED0205.13. EXHIBIT P4. COPY OF THE REPORT (COVERING LETTER)
SUBMITTED BY THE ADVOCATE COMMISSION IN CMP NO.280/13/ EXHIBIT
P5. COPY OF THE ROUGH SKETCH SUBMITTED BY THE ADVOCATE
COMMISSION IN CMP NO.280/13. EXHIBIT P6. COPY OF THE MAHAZAR
SUBMITTED BY THE ADVOCATE COMMISSION IN CMP NO.280/13 EXHIBIT
P7. COPY OF THE OBJECTION FILED BY THE RESPONDENT IN CMP
NO.282/13 IN CMP NO.280/13 IN OS NO. 279/13 DATED1605.13. EXHIBIT P8.
COPY OF THE

ORDER

PASSED BY THE COURT BELOW IN IA NO.1337/13 IN OS NO.279/13
DATED0406.13. EXHIBIT P9. COPY OF THE WRITTEN STATEMENT FILED BY
THE RESPONDENT IN OS NO.279/13 DATED2111.13. EXHIBIT P10.COPY OF
THE PLAINT IN OS NO.277/13 ON THE FILES OF PRINCIPAL MUNSIF
COURT, CHERTHALA. EXHIBIT P11. COPY OF THE WRITTEN STATEMENT
FILED BY THE DEFENDANTS IN OS NO.277/13 DATED1208.13. EXHIBIT P12.
COPY OF THE PETITION FILED BY THE PETITIONER IN IA NO.2731/13 IN OS
NO.279/13 DATED0110.13. EXHIBIT P13. COPY OF THE OBJECTION FILED
BY THE RESPONDENT IN IA NO.2731/13 IN OS NO.279/13 DATED2510.13.
EXHIBIT P14. COPY OF THE

ORDER

PASSED BY THE COURT BELOW IN IA NO.2731/13 IN OS NO.279/13
DATED 04.12.13. OP(C).No. 579 of 2014 (O) ----- --3--- EXHIBIT
P15. COPY OF THE SANCTION GRANTED BY BHASKARAN BROTHER OF
THE PETITIONER. RESPONDENT(S)' EXHIBITS -----
NIL TRUE COPY P.A TO JUDGE SMM V.CHITAMBARESH,J.

= = = = = O.P.(C) No.579 of 2014 = = = = =
Dated this the 25th day of February, 2014

JUDGMENT

Only an order to maintain status quo till the disposal of the suit has been passed in I.A No.1337/2013 for temporary injunction. The court below was therefore perfectly justified in refusing police aid to enforce that order as sought in I.A No.2731/2013.

2. Interest of justice would be met by directing the court below to dispose of I.A No. 1337/2013 finally on merits. The Court of the Principal Munsiff of Cherthala shall do so in O.S No.279/2013 within a period of one month.

3. The petitioner is free to move afresh for police aid dependant on the final orders passed in I.A No.1337/2013. The same shall be considered untrammelled by the observations contained the order in I.A No.2731/2013. The entitlement or otherwise of the petitioner to lay pipes beneath the road shall also be considered simultaneously. O.P.(C) No.579 of 2014 2 4. There is however no error of jurisdiction in the order impugned warranting interference. The Original Petition is dismissed. V.CHITAMBARESH JUDGE smm

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