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Ullasan.C.H Vs. Unila

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Court : Kerala

Decided On : Aug-18-2014

Judge : Honourable Mr.Justice T.R.Ramachandran Nair

Appellant : Ullasan.C.H

Respondent : Unila

Advocate for Def. : Sri. M.Sasindran

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR & THE HONOURABLE SMT. JUSTICE P.V.ASHA MONDAY, THE18H DAY OF AUGUST201427TH SRAVANA, 1936 FAO.No. 163 of 2014 () ---------- AGAINST THE

ORDER
IN OS4792013 of SUB COURT, KANNUR DATED0804-2014 IN I.A.NO.1631 OF2013..... APPELLANT/1ST DEFENDANT: ---------- ULLASAN.C.H, AGED ABOUT39YEARS S/O LATE KUNHIRAMAN, RINSHA BAKERY, CHIRAKKAL AMSOM, ALAVIL DESOM, ALAVIL P.O - 670 008, KANNUR DISTRICT. BY ADVS.SRI.M.SASINDRAN SRI.V.VENUGOPAL RESPONDENT/PLAINTIFF: ---------- UNILA, AGED47YEARS, D/O LATE KUNHIRAMAN, AYIKKAL, PAPPINISSERY P.O.PAPPINISSERY, KANNUR

DISTRICT - 670 561. R1 BY ADV. SRI.P.U.SHAILAJAN THIS FIRST APPEAL FROM

ORDER
S HAVING BEEN FINALLY HEARD ON1808-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: T.R.RAMACHANDRAN NAIR & P.V ASHA, JJ.

---------- F.A.O No.163 of 2014 ---------- Dated this the 18th day of August, 2014

JUDGMENT

Ramachandran Nair, J.

The appellant is 1st defendant in O.S.No.479 of 2012 on the file of the Court of Subordinate Judge, Kannur and he is aggrieved by the order in I.A.No.1631 of 2013. By the said order for disobedience of the order of injunction, the appellant was ordered to be detained in the civil jail for one month.

2. The respondent/plaintiff filed the suit for partition of plaint A to F properties. There are 7 items of properties in the plaint schedule A to G. The court below had passed an order of injunction in I.A.No.3543/2011 restraining the defendants from selling or assigning petition A to G schedule properties in such a way that except their 2/4th share in the plaint A to D schedule properties and 4/16th share in the plaint E and F schedule properties and G schedule property in whole or creating any charge or encumbrance upon those properties, until further orders. F.A.O No.163 of 2014 2 3. We heard the learned counsel for the appellant Sri M.Sasindran and the learned counsel for respondent Sri P.U.Shailajan. It is submitted by the learned counsel for the appellant that in the written statement the allegation in the plaint have been denied. It is also submitted that E & F schedule properties have been transferred on a wrong understanding of various aspects and also of the fact that the appellant was not having information regarding the true effect of the interim order.

4. The learned counsel submitted that the appellant has already undergone 10 days' detention and if this Court finds that the order impugned is sustainable, the period of confinement may be limited to the period of detention he had already undergone namely, 10 days.

5. The learned counsel for the respondent Sri P.U.Shailajan submitted that the contention that the appellant was not fully aware about the effect of the injunction order is not correct, which is clear from the counter affidavit filed in the I.A.

6. We have perused the order passed by the court below. The court had occasion to peruse Exts.A2 and A1 which are registration copies of sale deeds. The registration copies of the remaining sale deeds have been produced as Exts.A3 and A4 F.A.O No.163 of 2014 3 respectively. Exts.A1 and A2 relate to plaint E schedule, A3 relates to F schedule and A4 relates to G schedule. One of the assignees is the appellant herein. After finding that the same relate to the properties scheduled against which injunction order has been passed, the court below found that there is clear disobedience. In that view of the matter, we find that the interim order does not warrant any interference. But we modify the same as regards the period of detention of one month and it will be confined to the period that the appellant had already undergone in the civil prison. The appeal is disposed of as above. No costs. Sd/- T.R.RAMACHANDRAN NAIR Judge Sd/- P.V.ASHA Judge rtr/ /true copy/ P.S to Judge

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