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Vimal Mavar vs State of Kerala Represented by Secretary to Home Department

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Court : Kerala

Decided On : May-23-2024

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/17909/2024

Appellant : Vimal Mavar

Respondent : State of Kerala Represented by Secretary to Home Department

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN THURSDAY, THE 23RD DAY OF MAY 2024 / 2ND JYAISHTA, 1946 PETITIONERS: 1 VIMAL MAVAR AGED 40 YEARS S/O. MAVAR N. R., NETTAYKODATH HOUSE, MANNAMTHURUTH, VARAPUZHA P.O., ERNAKULAM, PIN - 683517 2 PREETHY MAVAR AGED 36 YEARS D/O. MAVAR N. R., NETTAYKODATH HOUSE, MANNAMTHURUTH, VARAPUZHA P.O., ERNAKULAM, PIN - 683517 BY ADV GOUTHAM KRISHNA U.B. RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY SECRETARY TO HOME DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 2 SECRETARY, VARAPUZHA GRAMA PANCHAYAT WARD NO. 13, CHETTIBHAGAM MAIN RD, VARAPUZHA, KERALA, PIN - 683517 3 DISTRICT POLICE CHIEF, ERNAKULAM RURAL SOUTH KALAMASSERY, KALAMASSERY, ERNAKULAM, KOCHI, KERALA, PIN - 682039 4 STATION HOUSE OFFICER, VARAPUZHA POLICE STATION CHETTIBHAGAM MAIN RD, BESIDE VILLAGE OFFICE, VARAPUZHA, KERALA, PIN - 683517 5 BINESH BABU (AGE NOT KNOWN TO THE PETITIONER), S/O. BABU KRISHNAN, KOCHUPARAMBIL HOUSE, MANNAMTHURUTH, VARAPUZHA, ERNAKULAM, PIN - 683517 6 BINITHA SHIBU MAVELIL (AGE NOT KNOWN TO THE PETITIONER), D/O. BABU KRISHNAN, KOCHUPARAMBIL, KOCHUPARAMBIL HOUSE, 8/198, MANNAMTHURUTH, VARAPUZHA P.O., ERNAKULAM, 683517. PRESENTLY RESIDING AT MAVELI HOUSE, MANJUMMEL, UDYOGAMANDAL P.O., ELOOR, ERNAKULAM, PIN - 683501 BY ADVS. DENIZEN KOMATH DEAN DENIZEN KOMATH(K/002080/2024) MEGHA MADHAVAN(K/1671/2024) GANGA S.(K/001039/2024) RAMZY BIN O.A.(K/00748/2024) SMT.REKHA C.NAIR, SENIOR G.P., SRI.NIRMAL S., SC FOR R2

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.05.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioners say that respondents 5 and 6 are meting out threats and intimidation to them solely because, they filed a complaint against them with respect to a building that has been constructed by them illegally.

2. The petitioners explain that they had earlier approached this Court, to obtain Ext.P1 judgment, whereby, the 2nd respondent - Secretary of the Grama Panchayat, was directed to consider their objections against the application for

regularisation preferred by the 6th respondent and that since they had been called for a hearing on 16.05.2024, attempts were made by the party respondents to obstruct from being able to do so, meting out several methods of intimidation. They say that they have been tormented by respondents 5 and 6 and their henchmen and that they fear for their lives because, the said respondents are politically and monetarily influential and affluent and would be willing to go to any extent to even cause physical harm. The petitioners say that, therefore, they preferred Ext.P5 complaint before respondents 3 and 4 seeking protection, but that no action has been taken thereon until now; thus constraining them to approach this Court through this Writ Petition.

3. Sri.S.Nirmal - learned Standing Counsel for the 2nd respondent - Corporation, submitted

that though his client does not have

appeared for hearing on 16.05.2024 and that their objections have been recorded.

4. Sri.Denizen Komoth - the learned counsel for respondents 5 and 6, in response, vehemently asserted that the allegations made against his clients are without any basis and that they have

not committed any act, as has been imputed against them. He added that his clients have no intent to cause any harm or intimidation to the petitioners, nor have they been obstructed from invoking their legal remedies, which is manifest from the fact that they were able to appear for the hearing on 16.05.2024. He, however, prayed

that the liberty to his client to invoke appropriate remedies in law be left open.

5. Smt.Rekha C.Nair - learned Senior

Government Pleader, submitted that the lives of the petitioners are being protected by the police and that as of now, there does not appear to be any threat to them at the hands of the party respondents or anyone else. She added that the 4th respondent - Station House Officer will keep necessary vigil in the area and

ensure that the law and order is always maintained.

6. As is evident from the afore narrative of the facts, the petitioners on one hand allege that they have been threatened by respondents 5 and 6 because they had filed a complaint against

them with respect to the regularisation of building owned by the latter among them; while, the said respondents take the stand that they have committed no such and that they have no requirement to do so.

7. In such circumstances, it is luculent that the afore stand of the police officers is the most apposite; and I, therefore, deem it appropriate to record the submissions of Smt.Rekha C.Nair.

In the afore circumstances, I allow this Writ Petition, recording the afore submissions of the learned Senior Government Pleader; with a consequential direction to the 4th respondent to ensure the lives of the petitioners, as well as respondents 5 and 6, are protected sufficiently from each other and that none of them are allowed to take law into their own hands, or to commit any action which is in violation of peace. The 3rd respondent - District Police Chief is hereby ordered to ensure that these directions are complied with in its letter and spirit. As far as the parties are concerned, the respective rights against each other, as available to them in law, are left open; for which purpose, their rival contentions in such regard are left undecided. Sd/- DEVAN RAMACHANDRAN JUDGE

SAS APPENDIX OF WP(C) 17909/2024 PETITIONERS EXHIBITS: Exhibit P1 A TRUE COPY OF THE JUDGEMENT DATED 04/04/2024 OF THIS HON'BLE COURT IN W.P. (C) 11047/2023 Exhibit P2 A TRUE COPY OF SCREENSHOT OF EMAIL REPRESENTATION DATED 18.09.2023 TO THE OMBUDSMAN, LSGI KERALA Exhibit P3 A TRUE COPY OF SCREENSHOT OF EMAIL REPRESENTATION DATED 18.09.2023 TO THE THE SUPERINTENDENT OF POLICE, VIGILANCE AND ANTI- CORRUPTION, ERNAKULAM

Exhibit P4 A TRUE COPY OF NOTICE DATED 08/05/2024 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER INTIMATING THE 1ST PETITIONER TO ATTEND THE HEARING Exhibit P5 TRUE COPY OF THE SCREENSHOT OF COMPLAINT SUBMITTED BY THE 1ST PETITIONER TO THE 3RD AND 4TH RESPONDENT VIDE. EMAIL DATED 11/05/24 Exhibit P6 TRUE COPY OF THE SCREENSHOT OF COMPLAINT SUBMITTED BY THE 2ND PETITIONER TO THE 3RD AND 4TH RESPONDENT VIDE. EMAIL DATED 11/05/24

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