

Dipu Chandran vs State of Kerala

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Court : Kerala

Decided On : May-30-2023

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/17172/2023

Appellant : Dipu Chandran

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH
TUESDAY, THE 30TH DAY OF MAY 2023 / 9TH JYASHTA, 1945
WP(C) NO. 17172 OF 2023 PETITIONER: DIPU CHANDRAN AGED 38
YEARS, S/O K.N CHANDRAN RESIDING AT KOSHNAI HOUSE,
THURAVOOR, ANGAMALY P.O, ERNAKULAM DISTRICT, PIN - 683
572. BY ADVS. ANOOP.V.NAIR AVANTHIKA R. RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY THE SECRETARY HOME
DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM, PIN - 695 001. 2 THE CIRCLE INSPECTOR
OF POLICE AYYAMPUZHA POLICE STATION, ALUVA, ERNAKULAM
DISTRICT, PIN - 683 581. 3 AYYAPANKUTTI S/O. MAANI,

VALLIYAPARAMBIL HOUSE, AYYAMPUZHA P.O, ALUVA,
ERNAKULAM DISTRICT, PIN - 683 581. 4 SIDDHARTHAN S/O.
KOCHURAMAN, NEDUVELLY HOUSE, AYYAMPUZHA P.O, ALUVA,
ERNAKULAM DISTRICT, PIN - 683 581. 5 SIVADASAN S/O.
KUNJUNNI, THONNIPARAMBIL HOUSE, AYYAMPUZHA P.O, ALUVA,
ERNAKULAM DISTRICT, PIN - 683 581. BY ADV GOVERNMENT
PLEADER

W.P(C) No.17172 of 2023 2 OTHER PRESENT: RAJEEV JYOTHISH GEORGE-
G.P THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30.05.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
W.P(C) No.17172 of 2023 3

JUDGMENT

Dated this the 30th day of May, 2023 The petitioner is before this Court seeking
police

protection against alleged intimidation by respondents 3 to 5. According to the
petitioner, respondents 3 to 5 have a small worship place and worship thara near
the property of the petitioner. Respondents 3 to 5 used to provide annadanam to
the public in their premises on special days. The petitioner had granted permission
to utilise boundary of property for the same and used to give permission for
parking vehicles in the property, on the days when annadanam is performed. The
petitioner would submit that he allowed the same believing that this is for a good
cause.

2. Now, the petitioner wanted to construct a fence

between the properties. When the petitioner started to fence his property,
respondents 3 to 5 and their men obstructed and did not permit the petitioner to
fence his property. Though the petitioner approached the respondents filing Ext.P4
complaint dated W.P(C) No.17172 of 2023 4 25.05.2023, the respondents are not
granting police protection, contends the petitioner.

3. The counsel for the petitioner would argue that the

petitioner has title over his property as evident from Exts.P1 to P3 documents, which is undisputed. The right of respondents 3 to 5 on the worship place is doubtful. The petitioners property has clearly demarcated boundaries. The respondents 3 to 5 therefore have no right to obstruct the petitioner from fencing. Unless this Court direct the police to give effective protection to the petitioner for fencing his property, the petitioner will be put to irreparable loss, contends the counsel for the petitioner.

4. Government Pleader entered appearance and resisted

the writ petition. Government Pleader denied all the material allegations made by the petitioner in the writ petition. On behalf of respondents 1 and 2 it is submitted that on receiving a complaint from the petitioner, enquiries were made. Respondents 3 to 5 have taken a stand that the petitioner has no clear title over the property claimed by the petitioner. Respondents 1 and 2 noted

W.P(C) No.17172 of 2023 5 that the matter clearly falls within the realm of Civil Law and therefore desisted from taking any criminal prosecution.

5. I have heard the learned counsel for the petitioner and the learned Government Pleader representing respondents 1 and 2.

6. The case of the petitioner is that the petitioner had

given permission to respondents 3 to 5 who had a place of worship near to the petitioners property, to use petitioners property for parking during special occasions. The petitioner would contend that the petitioner has a right to erect fencing around his property which the respondents 3 to 5 are obstructing.

7. It is evident from the pleadings and arguments made by

the counsel for the petitioner as well as the Government Pleader that there exists a dispute relating to the right over a property between the petitioner on the one side and respondents 3 to 5 on the other side. Therefore, this is purely a civil dispute and a police protection order will not be justified in the facts and circumstances of the case.

W.P(C) No.17172 of 2023 6 The writ petition is therefore dismissed. This will be without prejudice to the right of the petitioner to approach competent Civil Court or Forum for redressal of his grievance in accordance with law.

Sd/- N.NAGARESH AMR JUDGE W.P(C) No.17172 of 2023 7 APPENDIX OF WP(C) 17172/2023 PETITIONERS EXHIBITS Exhibit P1 TRUE COPY OF THE BASIC TAX RECEIPT NO. KL07041403777/2020 ISSUED BY THE VILLAGE OFFICER, AYYAMPUZHA TO THE PETITIONER, DATED 28.07.2020. Exhibit P2 TRUE COPY OF THE SALE DEED NO. 1986/2013 DATED 07.05.2013 EXECUTED BY MR. T. A JOSEPH TO THE PETITIONER. Exhibit P3 TRUE COPY OF THE LOCATION SKETCH NO. A3523/11, DATED 19.12.2011, ISSUED BY THE SURVEYOR TO THE PETITIONER. Exhibit P4 TRUE COPY OF THE COMPLAINT DATED 25.05.2023 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

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