

Nebu@ Chackochan vs Louis Anthony

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Court : Kerala

Decided On : Jan-03-2023

Judge : Honourable Mr.Justice K.Vinod Chandran,Honourable Mr.Justice C. Jayachandran

Appeal No. : RP/591/2022

Appellant : Nebu@ Chackochan

Respondent : Louis Anthony

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN & THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN TUESDAY, THE 3RD DAY OF JANUARY 2023 / 13TH POUSHA, 1944 RP NO. 591 OF 2022 AGAINST THE JUDGMENTWP(C)34119/2016 OF HIGH COURT OF KERALA REVIEW PETITIONER/4TH RESPONDENT: NEBU@ CHACKOCHAN,AGED 51 YEARS, S/O ANTHONY, KAVALAPARAMBIL HOUSE, KONTHURUTHY, THEVARA KOCHI - 682013 BY ADVS. A.BALAGOPALAN A.RAJAGOPALAN M.N.MANMADAN M.S.IMTHIYAZ AHAMMED P.SEENA RESPONDENT/PETITIONER & RESPONDENT 1 TO 3: 1 LOUIS

ANTHONY, S/O ANTHONY AGED 61 YEARS, KAVALAPARAMBIL

HOUSE, KONTHURUTHY P.O., THEVARA- PIN 682013, PRESENTLY
RESIDING AT 209, HARD WAY LANE, SANTA ROSA BEACH,
FLORIDA- 32459, USA. 2 STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, HOME DEPT, GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 3 THE CIRCLE
INSPECTOR OF POLICE, TOWN SOUTH POLICE STATION,
THEVARA, ERNAKULAM., PIN - 682013 4 THE SUB INSPECTOR OF
POLICE, TOWN SOUTH POLICE STATION, THEVARA, ERNAKULAM.,
PIN - 682013 BY ADVS. SASI M.R. N.P.SILPA SREEKUMAR K.V.
DHARMYA M.S KAVYA KRISHNAN S.SAJIT SANAL

OTHER PRESENT: T.K.VIPINDAS- SR.G.P THIS REVIEW PETITION
HAVING COME UP FOR ADMISSION ON 03.01.2023, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING: K.VINOD
CHANDRAN & C.JAYACHANDRAN, JJ -----

----- Dated this the 3rd day of January, 2023

ORDER

Vinod Chandran, J.

Read order dated 23.12.2022:

The review petition seeks review of an undertaking given before this Court. The review petitioner and the 1st respondent are brothers. The 1st respondent, who is abroad, approached this Court with a writ petition praying for police protection to the life, liberty and property of himself from illegal acts of respondent No.4, who is the review petitioner herein. The learned Counsel for respondent No.4 before the writ court submitted that he has no claim in respect of the property claimed by the petitioner, his brother, that he does not own any neighboring property having common boundary as also that he has no intention to obstruct the

petitioner. Recording the above statement, the writ petition was closed, but however, it was also directed that if any obstruction is

caused, the petitioner shall be granted protection.

2. The review is only in so far as the 4 th

respondent having a property lying adjacent to his brother's property. The review does not seek for any modification in the undertaking earlier given in so far as the review petitioner having no claim as against the property of the 1st respondent and also the review petitioner having no intention to obstruct the 1st respondent from enjoying his property. We would have allowed the review at the outset, but however, the learned Counsel representing the Counsel for the review petitioner submits that the learned Counsel for the review petitioner is out of station and seeks an adjournment. The learned Counsel appearing for the 1st respondent submits that he has no objection in allowing the review as such.

3. As of now, maintaining the order of police

protection granted in favor of the 1st respondent in so far as averting any obstruction caused to the enjoyment of the property of the review petitioner, we adjourn the matter. Only in that circumstance of the adjournment sought in the review petition and also taking into consideration the delay occasioned, we direct the matter to be posted

on 03.01.2023. However, we make it clear that if any obstruction is caused to the enjoyment of the 1st respondent's (petitioner in the writ petition) property, the police shall deal with it and ensure that the obstruction is averted.

2. As noticed above, the review is limited to

the observation in the judgment, in so far as the review petitioner not owning any neighboring property having common boundary with the property claimed by the petitioner. Learned counsel for the review petitioner also submits that a title deed

has been produced, wherein, a specific survey number has been noticed. Since no survey number has been noticed in the judgment under review, we will not go into that. In so far as the observation of the petitioner not owning any neighboring property being contrary to facts; even in the context of the same having been observed by the learned Judges on the submission made by the learned counsel for the petitioner, we review the same and delete that portion. The judgment under review in all other respects remain untouched. Review petition is allowed to the limited extent. Sd/- K.VINOD CHANDRAN JUDGE Sd/- C.JAYACHANDRAN JUDGE Sbnal

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