

C.J. Joy vs Assistant Engineer

C.J. Joy vs Assistant Engineer

SooperKanoon Citation : sooperkanoon.com/1402061

Court : Kerala

Decided On : Dec-01-2023

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/35900/2023

Appellant : C.J. JOY

Respondent : Assistant Engineer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN FRIDAY, THE 1ST DAY OF DECEMBER 2023 / 10TH AGRAHAYANA, 1945 PETITIONER :- C.J. JOY, AGED 69 YEARS S/O LATE JOSEPH ,26/939 , CHEERAMKUZHY HOUSE , GOVINDAPURAM, KOZHIKODE, PIN - 673016 BY ADVS. KRISHNA PRASAD. S SINDHU S KAMATH ROHINI NAIR SURAJ KUMAR D. SWAPNA S.K. SUNILKUMAR K.K. RESPONDENTS :- 1 ASSISTANT ENGINEER OFFICE OF THE ASSISTANT ENGINEER, PUBLIC WORKS DEPARTMENT, PANAMARAM DIVISION PANAMARAM, WAYANAD, PIN - 670721 2 KERALA INFRASTRUCTURE INVESTMENT FUND BOARD REPRESENTED BY ITS CHAIRMAN &

MANAGING DIRECTOR, 2ND FLOOR , FELICITY SQUARE, MG ROAD, STATUE, THIRUVANANTHAPURAM, PIN - 695001 3 EXECUTIVE ENGINEER KERALA ROAD FUND BOARD, A-16 , VRINDAVAN COLONY, CHEVAYUR, KOZHIKODE, PIN - 673017 4 DISTRICT DISASTER MANAGEMENT COMMITTEE REPRESENTED BY THE DISTRICT COLLECTOR-WAYANAD, NH212, CIVIL STATION, KAIRALI NAGAR, KALPETTA, KERALA, PIN - 673122 5 KERALA STATE DISASTER MANAGEMENT AUTHORITY (KSDMA) REPRESENTED BY ITS CHIEF SECRETARY, VIKAS BHAVAN , THIRUVANANTHAPURAM, PIN - 695033 6 STATE OF KERALA REPRESENTED BY ITS SECRETARY, PUBLIC WORKS DEPARTMENT , SECRETARIAT. THIRUVANANTHAPURAM, PIN - 695001 BY ADV S.CHANDRASEKHARAN NAIR, SC, KIIFB SRI.K.V.MANOJ KUMAR, SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner has approached this Court with an allegation that respondents are constructing a new culvert and that consequence of it would be that the drainage water would flow into his property. He, therefore, prays that respondents be directed not to cause any such construction and to do so ensuring that there is no accumulation of water in his property during monsoons or in other period.

2. Sri.K.V.Manojkumar, learned Special Government

Pleader for the PWD, in response to the afore submissions of the petitioner, as made by Sri.Krishna Prasad S, submitted that there is misrepresentation of facts in this case because, PWD is not constructing any new culvert, but is only reconstructing an existing one; and that the flow of water will never be impeded or altered on account of this. He submitted that the situation, as it was earlier, could continue and that the petitioner cannot have any objection to it because he purchased the property very recently. He added that, however, every step would be ensured to avert unnecessary flow of water into the petitioners property and to

divert it only through the culvert and drainage system, as far as practically possible. He submitted that since the drainage is an existing one, flow of water will not be altered solely on account of the construction.

3. When I consider and evaluate the afore rival

submissions, it is indubitable that, normally, drainage or storm water cannot be diverted or flowed through private properties. The drainage system is meant for this purpose; and obviously, the construction of culverts or reconstruction, as the case may be, is also for this and no other. In the afore circumstances, I allow this writ petition to the limited extent of directing the respondents to ensure that design of the culvert and drainage is done in such a manner that no drainage or storm water would flow from the public properties into that of the petitioner, solely because of the existing drainage system or such constructions. Sd/- DEVAN RAMACHANDRAN JUDGE SMA APPENDIX OF WP(C) 35900/2023 PETITIONER EXHIBITS :- Exhibit P1 A TRUE COPY OF THE SALE DEED NO. 1999 OF 2021 IN FAVOUR OF THE PETITIONER DATED 10-09-2021 Exhibit P2 A TRUE COPY OF THE REGISTERED SALE DEED NO. 2048 OF 2021 EXECUTED IN FAVOUR OF THE PETITIONER DATED 16-09-2021 Exhibit P3 A TRUE COPY OF THE ORDER ISSUED FROM THE REVENUE DIVISIONAL OFFICER DATED 29-11-2021 Exhibit P4 A TRUE COPY OF THE SALE DEED NO. 1145 OF 2022 IN FAVOUR OF THE PETITIONER DATED 26-03-2022 Exhibit P5 A TRUE COPY OF THE LATEST LAND TAX RECEIPT ISSUED IN FAVOUR OF THE PETITIONER BY THE MANANTHAVADY VILLAGE OFFICER DATED 25-10-2023 Exhibit P6 A TRUE COPY OF THE 4 PHOTOGRAPHS UNDATED,

SHOWING THE EXISTING DRAINAGE AND THE PRESENT CONDITION OF ILLEGAL CONSTRUCTION OF A CULVERT THAT DIVERTS THE DRAINAGE WATER TO THE PROPERTY OF THE PETITIONER

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com