

Abdul Khader vs Kishore

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Court : Kerala

Decided On : Mar-31-2022

Judge : Honourable Mr. Justice K.Haripal

Appeal No. : Con.Case(C)/592/2022

Appellant : Abdul Khader

Respondent : Kishore

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE K.HARIPAL THURSDAY, THE
31ST DAY OF MARCH 2022 / 10TH CHAITHRA, 1944

**ORDER DATED 10.03.2022 IN CrI.M.C. NO. 1642/2022 OF HIGH
COURT OF**

KERALA PETITIONERS/PETITIONERS: 1 ABDUL KHADER AGED 32 YEARS
S/O.MOIDUTTY, KIZHAKKUMUNDAYIL HOUSE, EZHUVANTHALA, NELLAYA,
PALAKKAD DISTRICT PIN - 679 335 2 BEEVIKUTTY U.K. AGED 57 YEARS
W/O.KUNHIMUHAMMED, URULANKUNNATH HOUSE, VALOOR,
SANKARAMANGALAM, PATTAMBI, PALAKKAD DISTRICT PIN - 679303 BY
ADV. BABU S. NAIR RESPONDENT/3RD RESPONDENT: KISHORE AGE AND

FATHER'S NAME NOT KNOWN TO THE PETITIONER, TAHSILDAR, PATTAMBI TALUK, PALAKKAD DISTRICT, PIN - 679303 BY SMT. SREEJA V. SENIOR PUBLIC PROSECUTOR THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR ADMISSION ON 31.03.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Petitioners had filed Crl.M.C. No. 1642/2022 under Section 482 of the Code of Criminal Procedure seeking to return an excavator/JCB and a mini lorry involved in an MMDR proceedings initiated, alleging that the vehicles were seized and kept in the premises of the Taluk Office and are not being returned. By order dated 10.03.2022, this Court directed the third respondent to release the vehicles. Now contending that the third respondent has willfully, intentionally and deliberately flouted the orders of this Court, the petitioner has moved this Court under Section 12 of the Contempt of Courts Act.

2. Now the third respondent, who is the counter

petitioner has filed a statement stating that the Village Officer, Anakkara Village had seized the vehicles on the instructions of the Sub Collector and Sub Divisional Magistrate, Ottappalam and the vehicles happened to be parked in the premises of the Taluk office, Pattambi. The Village Officer had acted as directed by the Sub Divisional Magistrate, Ottappalam and now the matter is with the District Geologist who is the second respondent in the Crl.M.C.

3. I heard the learned counsel for the petitioners and the learned Senior Public Prosecutor.

4. From the report of the Tahsildar, it is very clear that

he is a total stranger to the proceedings. Merely for the reason that the vehicles happened to be parked in the premises of the Taluk office, he

might not have come across the proceedings. In the circumstance, this Court ought not have directed him to release the vehicles. He has no manner of right or control over the vehicles; the Village officer had acted only on the directions of the Sub Divisional Magistrate, Sub Collector, Ottappalam. In view of the above, the contempt of court case cannot be proceeded against him. It is closed. However, since it has come out that the vehicles are now in the custody of the second respondent in the Crl.M.C., the District Geologist, is directed to

comply with the order dated 10.03.2022 issued by this Court in Crl.M.C.No. 1642/2022. I make it clear that the order shall be limited to the present proceedings only, having regard to the special circumstances noticed above. Sd/- K.HARIPAL JUDGE DCS/31.03.2022 APPENDIX PETITIONER'S ANNEXURE ANNEXURE A CERTIFIED COPY OF THE ORDER IN CRL.M.C.NO.1642/2022 DATED, 10-3-2022

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