

Beeru vs State of Kerala

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Court : Kerala

Decided On : Oct-13-2022

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : WP(C)/32474/2022

Appellant : BEERU

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN THURSDAY,
THE 13TH DAY OF OCTOBER 2022 / 21ST ASWINA, 1944 WP(C) NO.
32474 OF 2022 PETITIONERS:

1 BEERU AGED 61 YEARS PAZHOOPARAMBIL HOUSE, AZHIKODE
VILLAGE, AZHIKODE JETTY P.O., KODUNGALLUR TALUK,
THRISSUR DISTRICT-680 666. 2 ABITHA, AGED 55 YEARS W/O ABU,
PAZHOOPARAMBIL HOUSE, AZHIKODE VILLAGE, AZHIKODE JETTY
P.O., KODUNGALLUR TALUK, THRISSUR DISTRICT-680 666. BY
ADVS. V.N.SANKARJEE V.N.MADHUSUDANAN R.UDAYA JYOTHI
M.M.VINOD M.SUSEELA KEERTHI B. CHANDRAN VIJAYAN PILLAI

P.K. C.PURUSHOTHAMAN NAIR P.M.ABDUL JALEEL
(KODUNGALLUR) NITHEESH.M SUKANYA S.

RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY THE
CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001. 2 THE SECRETARY TO
GOVERNMENT, PUBLIC WORKS DEPARTMENT, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 001. 3 THE CHIEF
ENGINEER, PUBLIC WORKS DEPARTMENT (ROADS), PALAYAM,
THIRUVANANTHAPURAM-695 034. W.P (C) No. 32474 of 2022 :2:

4 THE SUPERINTENDING ENGINEER, PWD ROADS, PWD CENTRAL
CIRCLE, TB ROAD, THRISSUR-680001. 5 THE DIRECTOR GENERAL
OF POLICE, THIRUVANATHAPURAM-695 001. 6 THE DISTRICT
POLICE CHIEF (RURAL), KALYAN NAGAR, AYYANTHOL, THRISSUR-
680 003. 7 THE STATION HOUSE OFFICER, KODUNGALLUR POLICE
STATION, PIN 8 THE ASSISTANT ENGINEER, PUBLIC WORKS
DEPARTMENT (ROADS), KODUNGALLUR, THRISSUR DISTRICT,
PIN- 680 664. 9 DEEPAK P.S. (AGE & FATHER'S NAME NOT KNOWN
TO THE PETITIONERS), ASSISTANT ENGINEER, PUBLIC WORKS
DEPARTMENT (ROADS), KODUNGALLUR, THRISSUR DISTRICT,
PIN- 680 664. 10 RETHEESH, S/O MUKUNDAN (AGE NOT KNOWN
TO THE PETITIONERS), KAROLIL HOUSE, PADANNA, METHALA
VILLAGE, KODUNGALLUR TALUK, THRISSUR DISTRICT, PIN- 680
664 . 11 VIJAYAKUMAR, S/O DASAN (AGE & FATHER'S NAME NOT
KNOWN TO THE PETITIONERS), CHALLIYIL HOUSE, PADANNA,
METHALA VILLAGE, KODUNGALLUR TALUK, THRISSUR DISTRICT,
PIN- 680 664.

OTHER PRESENT: SMT.AMMINIKUTTY(SR.G.P) THIS WRIT
PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13.10.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: W.P (C) No. 32474 of 2022 :3: V.G.ARUN J.

----- W.P.(C) No.32474 of 2022

----- Dated this the 13th day of October 2022

JUDGMENT

The writ petition is filed aggrieved by the alleged encroachment into the petitioners property and digging up of the tiled pavement within the petitioners petrol bunk. It is admitted that the petitioners have already instituted a suit with respect to the same issue.

2. Learned Counsel for the petitioners submits that the writ

petition was necessitated since immediate restoration of the pavement is needed for the smooth conduct of the business. It is pointed out that the Public Works Department not being a party to the pending suit, the petitioner may not get the required relief.

3. Learned Government Pleader submitted that, going by the

averments in the writ petition and the reliefs sought, the dispute is essentially between the petitioners and respondents 10 and 11, who are private parties. I am also of the view that the dispute involved is purely civil in W.P (C) No. 32474 of 2022 :4: nature and cannot therefore be resolved through a writ petition. It is for the petitioners to work out their remedies in the pending civil suit by impleading the Public Works Department. As contended by the counsel for the petitioners, pendency of the suit cannot be a reason for the statutory authorities to refuse consideration of the representations filed by the first petitioner. The writ petition is closed accordingly. Sd/- V G ARUN JUDGE anm W.P (C) No. 32474 of 2022 :5: APPENDIX OF WP(C) 32474/2022 PETITIONERS EXHIBITS Exhibit P1 TRUE COPIES OF SALE DEED NO. 285/2008 DATED 7.1.2008 ON THE FILE OF THE S.R.O., Exhibit P2 TRUE COPIES OF SALE DEED NO. 525/2009 DATED 26.2.2009 ON THE FILE OF THE S.R.O., Exhibit P3 TRUE COPY OF THE TAX RECEIPT NO. 0445892 DATED 4.5.2020. Exhibit P4 TRUE COPY OF THE SALE DEED NO. 284/2008 DATED 7.1.2008 OF THE S.R.O., Exhibit P5 TRUE COPY OF THE TAX RECEIPT NO.KLO8051701082/2020 DATED 4.5.2020. Exhibit P6 TRUE COPY OF THE PLAINT DATED 5.5.2020 IN O.S. NO. 358/2020 OF THE

MUNSIFF'S COURT, KODUNGALLUR. Exhibit P7 TRUE COPY OF THE INTERIM ORDER DATED 13.5.2020 IN I.A. NO. 5/2020 IN O.S. NO. THRISSUR. Exhibit P8 TRUE COPY OF THE NOTICE NO.02.GENERAL/2022 DATED 4.8.2022 ISSUED BY THE 8TH RESPONDENT TO THE 1ST PETITIONER. Exhibit P9 TRUE COPY OF THE COMPLAINT DATED 9.8.2022 LODGED TO RESPONDENTS 1 TO 4. Exhibit P10 TRUE COPY OF THE PETITIONERS' COMPLAINT DATED 8.8.2022 SUBMITTED BEFORE THE HONOURABLE HOME MINISTER OF KERALA. Exhibit P11 TRUE COPY OF THE 1ST PETITIONERS' REPRESENTATION DATED 8.8.2022 SUBMITTED TO THE 5TH RESPONDENT. Exhibit P12 TRUE COPY OF THE 1ST PETITIONERS' REPRESENTATION DATED 8.8.2022 SUBMITTED TO THE 6TH RESPONDENT.

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