

Homestead Projects and Developers vs the State of Kerala

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Court : Kerala

Decided On : Aug-05-2019

Judge : Honourable Mr.Justice K.Vinod Chandran,Honourable Mr.Justice V.G.Arun

Appeal No. : WP(C)/3695/2019

Appellant : Homestead Projects and Developers

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN & THE HONOURABLE MR.JUSTICE V.G.ARUN MONDAY, THE 05TH DAY OF AUGUST 2019 / 14TH SRAVANA, 1941 WP(C).No.3695 OF 2019(J) PETITIONERS: 1 HOMESTEAD PROJECTS AND DEVELOPERS PVT. LTD., DOOR NO. EP/VII-691, OPPOSITE GOVERNMENT REST HOUSE, CHANGUVETTY, KOTTAKAL, MALAPPURAM REPRESENTED BY THE MANAGING DIRECTOR ABDUL LATHEEF KAINIKKARA, AGED 40 YEARS, S/O. MOHAMMED ASHRAF, K., KAITHAVALAP (H), TIRUR (PO), THIRUR TALUK, MALAPPURAM DISTRICT.

2 FORZZA DEVELOPERS PVT. LTD., TIRUR MALAPPURAM, REPRESENTED BY THE MANAGING DIRECTOR, JAMSHEED RAFIQUE .P., S/O. MOHAMMED .P. PANIKANDATHIL (H), NEAR BUS STAND, TIRUR , MALAPPURAM. 3 BEACH BLOSSOM BUILDERS PVT. LTD., REPRESENTED BY THE MANAGING DIRECTOR SAJAL.MA.A , AGED 27 YEARS, S/O. APPUKUTTY , PULIKKAPOTTAMAL HOUSE, AZHINILAM P.O., VAZHAYUR, MALAPPURAM KERALA. BY ADVS. C C ABRAHAM SRI.ALEX ABRAHAM SRI.V.HARIKRISHNAN RESPONDENTS: 1 THE STATE OF KERALA REPRESENTED BY ITS SECRETARY, DEPARTMENT OF HOME AFFAIRS, THIRUVANANTHAPURAM 695 001. 2 THE SUPERINTENDENT OF POLICE, OFFICE OF THE SUPERINTENDENT OF POLICE, MALAPPURAM DISTRICT 676 103.

3 THE DEPUTY SUPERINTENDENT OF POLICE, WP(C).No.3695 OF 2019(J) 2 MALAPPURAM, PIN-676 103. 4 THE STATION HOUSE OFFICER, MALAPPURAM POLICE STATION STATION, MALAPPURAM DISTRICT 676 103.

5 SUBAIR PATARKADAVAN, S/O. AHAMMEDKUTTY, PATTARKADAVAN HOUSE, PANAKAKD, MALAPPURAM, ERNAD TALUK, MALAPPURAM DISTRICT PATTARKADAVU P.O.,. 6 VEERANKUTY .V., S/O. KUNJAYAMMU, VENGAKKAL HOUSE, PATTARKADAVU.P.O., 7 P.K.MOHAMMED, PATTARKADAVAN HOUSE, PANAKKAD, MALAPPURAM, ERNAD TALUK, MALAPPURAM DISTRICT, PATTARKADAVU P.O., 676 505. BY ADVS. SRI.K.SHAJ SHRI.THAREEQ ANVER SR.GP SRI.P.P.THAJUDEEN THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 2907-2019, THE COURT ON 05-08-2019 DELIVERED THE FOLLOWING: WP(C).No.3695 OF 2019(J) 3

JUDGMENT

Vinod Chandran, J The petitioner is before this Court seeking police protection for completing the construction as per Ext P1 agreement. Respondents 6 and 7 appear through counsel. The petitioners contention was that respondents 5 to 7 local people are obstructing the construction and that they have caused physical

obstruction armed with weapons. The respondents 6 and 7 appear and submit that there was no such incident as alleged in the writ petition. The respondents being local people were apprehensive of environmental issues arising on the construction of the complex and disposal of waste generated. The respondents had then filed an application under RTI Act as to the permissions obtained by the petitioners. Then apprehending obstruction the petitioner has approached this Court.

2. We see from Ext P5 that the locals were

aggrieved with various problems all of which have to be WP(C).No.3695 OF 2019(J) 4 agitated before the civil court. We cannot direct the police to grant protection to construct an apartment complex and even if the builder has a problem with respect to obstruction on allegation of the constructions affecting civil rights of others, the builder has to approach the civil court and obtain an injunction. In such circumstances, we are not inclined to entertain the writ petition and dismiss the same but however leaving liberty to the parties to approach the civil court. K.VINOD CHANDRAN, JUDGE V.G.ARUN, JUDGE cms xxx WP(C).No.3695 OF 2019(J) 5 APPENDIX PETITIONER'S/S EXHIBITS:

EXHIBIT P1 TRUE COPY OF THE TRIPARTITE AGREEMENT ENTERED INTO BY THE PETITIONER AND THE ABOVE MENTIONED COMPANIES DATED 14.6.2018. EXHIBIT P2 TRUE COPY OF THE BUILDING PERMIT DATED 18.11.2017 ISSUED BY THE SECRETARY, MALAPPURAM MUNICIPALITY. EXHIBIT P3 TRUE COPY OF THE FIRE SAFETY CLEARANCE FOR SITE DATED 12.10.2017 ISSUED BY THE DEPARTMENT OF FIRE AND RESCUE SERVICES. EXHIBIT P4 TRUE COPY OF THE CONSENT TO ESTABLISH ISSUED BY THE KERALA POLLUTION CONTROL BOARD DATED 6.1.2016. EXHIBIT P5 THE PHOTOGRAPHS/SCREEN SHOT UPLOAD IN ACE BOOK BY THE RESPONDENT NO.5. EXHIBIT P6 TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER DATED 15.9.2018 BEFORE THE 3RD RESPONDENT. EXHIBIT P7 TRUE COPY OF THE COMPLAINT PREFERRED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 21.1.2019. RESPONDENTS EXTS NIL cms /True copy/ P.S.TO JUDGE

