

Vicar vs Shamon

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SooperKanoon Citation : sooperkanoon.com/1921739

Court : Kerala

Decided On : Oct-09-2019

Judge : Honourable Mr. Justice a.Muhamed Mustaque

Appeal No. : RP/454/2019

Appellant : VICAR

Respondent : Shamon

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE WEDNESDAY, THE 09TH DAY OF OCTOBER 2019 / 17TH ASWINA, 1941 RP.No.425 OF 2019 IN WP(C). 1820/2018 AGAINST THE JUDGMENT IN WP(C) 1820/2018(B) OF HIGH COURT OF KERALA DATED 02.04.2019 PETITIONERS/PETITIONERS:

1 OUR LADY OF DOLOURS CHURCH, MANJALY, KARUMALLOOR VILLAGE, NORTH PARAVUR TALUK, NORTH PARAVUR - 683520 REPRESENTED BY ITS VICAR. 2 SECRETARY, PARISH COUNCIL, OUR LADY OF DOLOURS CHURCH, MANJALY, KARUMALLOOR VILLAGE, NORTH PARAVUR TALUK, NORTH PARAVUR - 683520 BY

ADV. SRI.R.S.KALKURA RESPONDENTS/PETITIONERS: 1 STATE OF KERALA, REPRESENTED BY ITS SECRETARY, REVENUE, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM - 695 001 2 THE DISTRICT COLLECTOR, ERNAKULAM, COLLECTORATE, KAKKANAD 682 030 ERNAKULAM DISTRICT. 3 THE TAHSILDAR, NORTH PARUR, TALUK OFFICE, NORTH PARUR 683513 4 SHAMON P.H, AGED 36 YEARS S/O. HYDROSE, POYULUNGAL HOUSE, MANNAM P.O, MANJALY, PARAVUR TALUK 683513 5 SHIBY, AGED 45 YEARS D/O. ABDULKARIM, KALARIKKAL HOUSE, MANNAM P.O, MANJALY, PARAVUR TALUK 683513 R.P Nos.425 & 454 of 2019 2 6 NAJEEB, AGED 40 YEARS S/O. ABDULKARIM, KALARIKKAL HOUSE, MANNAM P.O, MANJALY, PARAVUR TALUK 683513

7 RISHI, AGED 41 YEARS S/O.LAILA, KALARIKKAL HOUSE, MANNAM P.O, MANJALY, PARAVUR TALUK 683513. OTHER PRESENT: SRI.K P HARISH, SENIOR GOVT. PLEADER THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 09.10.2019, ALONG WITH RP.454/2019, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: R.P Nos.425 & 454 of 2019 3

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE WEDNESDAY, THE 09TH DAY OF OCTOBER 2019 / 17TH ASWINA, 1941 RP.No.454 OF 2019 IN WP(C). 3866/2018 AGAINST THE JUDGMENT IN WP(C) 3866/2018(G) OF HIGH COURT OF KERALA DTD.02.04.2019 PETITIONER/7TH RESPONDENT:

VICAR OUR LADY OF DOLLAR'S CHURCH, MANJALY, KARUMALLOOR VILLAGE, MANNAM.P.O,PARAVUR, ERNAKULAM-683513. BY ADV. SRI.R.S.KALKURA RESPONDENTS/PETITIONERS AND RESPONDENTS 1 TO 6: 1 SHAMON, AGED 36, S/O.HYDROSE,POYLUNGAL HOUSE, MANJALY KARA,KARUMALLUR VILLAGE, PARAVUR

TALUK,MANNAM.P.O,ERNAKULAM, PIN-683513. 2 MATHACHAN.E.M, AGED 54 YEARS S/O MATHAYI,ELAMKUNNAPPUZHA HOUSE, MANJALY,MANNAM.P.O,ERNAKULAM,PIN-683513.

3 JAMSHEENA, W/O.NAJEEB,KALARIKKAL HOUSE,MANJALY, MANNAM.P.O,ERNAKULAM,PIN-683513. 4 ABDUL KAREEM, AGED 59 YEARS S/O.SYEDU,PUTHENPARAMBIL HOUSE,MANJALY, MANNAM.P.O,ERNAKULAM-683513. 5 GRACY, AGED 63 YEARS W/O.VARGHESE,THERULLI HOUSE,MANJALY, MANNAM.P.O,ERNAKULAM-683513. R.P Nos.425 & 454 of 2019 4 6 SHIBI.K.A, AGED 45 YEARS S/O.ABDUL KAREEM,KALARIKKAL HOUSE, MANJALY,MANNAM.P.O,ERNAKULAM-683513.

7 STATE OF KERALA, SECRETARY TO GOVERNMENT, LAND REVENUE DEPARTMENT, SECRETARIAT,THIRUVANANTHAPURAM-695001. 8 THE COMMISSIONER OF LAND REVENUE, GROUND FLOOR,NEW BUILDING,BAKERY JUNCTION ROAD, UNIVERSITY OF KERALA SENATE HOUSE CAMPUS,PALAYAM, THIRUVANANTHAPURAM,KERALA-695033. 9 THE DISTRICT COLLECTOR, ERNAKULAM DISTRICT,CIVIL STATION,KAKKANAD, ERNAKULAM,PIN-682030. 10 THE TAHSILDAR, PARAVUR TALUK,PARAVUR,TALUK OFFICE,PARAVUR, ERNAKULAM-683513. 11 THE VILLAGE OFFICER, KARUMALLOOR VILLAGE OFFICE,PARAVUR, ERNAKULAM-683513. 12 THE KARUMALLOOR GRAMA PANCHAYAT, KARUMALLOOR,ALUVA,ERNAKULAM -683513, REPRESENTED BY ITS SECRETARY. SRI.K.P. HARISH, SENIOR GOVT. PLEADER THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 09.10.2019, ALONG WITH RP.425/2019, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: R.P Nos.425 & 454 of 2019 5

ORDER

These review petitions are filed seeking review of the common

judgment of this Court in W.P.(C) Nos.1820 and 3866 of 2018 dated

02.04.2019. These writ petitions were disposed by directing the Government to consider the complaint raised by the party respondents. It appears that the Government had considered and passed orders in the matter. This Court had only directed the Government to consider the complaint. The Court had not considered the competency of the Government to pass orders on such complaint. Essentially these review petitions were filed stating that the Government has no authority to interfere in the matter. The question whether the Government has any authority or jurisdiction to interfere in the matter can be raised in appropriate proceedings challenging the orders of the Government. With liberty as above and leaving open all the issues, these review petitions are disposed of. Sd/- A.MUHAMED MUSTAQUE JUDGE smp R.P Nos.425 & 454 of 2019 6 APPENDIX OF RP 454/2019 PETITIONER'S EXHIBITS: ANNEXURE A1(a) TRUE COPY OF THE TAX RECEIPT BEARING NO.707 DATED 12.3.1997 ISSUED BY THE VILLAGE OFFICER,KARUMALLOOR. ANNEXURE A1(b) TRUE COPY OF THE ORDER OF ASSIGNMENT DATED 18.9.1985 BEARING NO.844/85/RD ANNEXURE A1(c) TRUE COPY OF THE PATTA BEARING B-11837/87 DATED 4.06.1994 BY THE TAHSILDAR PARAVUR. ANNEXURE A1(d) THE PHOTOGRAPHS OF THE PATHWAY LEADING TO THE CHURCH AND THE CHURCH ANNEXURE A1(e) TRUE COPY OF THE SUIT O.S.457 OF 2017 DATED 20.6.2017 ON THE FILE OF THE MUNSIFF'S COURT,NORTH PARUR. ANNEXURE A1(f) TRUE COPY OF THE ORDER OF INJUNCTION IN I.A.NO.1616 OF 2017ON THE FILE OF THE MUNSIFF'S COURT NORTH PARUR DATED 27.7.2017. ANNEXURE A1(g) TRUE COPY OF THE PHOTOGRAPH OF THE ARCH PLACED IN THE PATHWAY LEADING TO THE CHURCH ANNEXURE A1(h) THE TRUE COPY OF THE LETTER OF REQUEST SUBMITTED BY THE 2ND AND 5TH PETITIONER DATED 17.6.1994 BEFORE THE CHURCH AUTHORITY. ANNEXURE A1(i) TRUE COPY OF THE LETTER DATED 4.12.2017

ISSUED BY K.A.JOSEPH, MEMBER OF THE CHURCH TO THE PUBLIC INFORMATION OFFICER,ALANGAD BLOCK PANCHAYAT. ANNEXURE A1(j) TRUE COPY OF THE REPLY DATED 22.12.2017 ISSUED BY THE PUBLIC INFORMATION OFFICER ALANGAD BLOCK PANCHAYAT TO K.A.JOSEPH. ANNEXURE A1(k) TRUE COPY OF THE LETTER DATED 29.8.2017 ISSUED BY KARUMALLOOR GRAMA PANCHAYAT. ANNEXURE A1(l) THE TRUE COPY OF

THE REPORT DATED 20.12.1983 PREPARED BY THE REVENUE INSPECTOR ALANGAD WITH REGARD TO THE PROPERTY TO BE ASSIGNED IN FAVOUR OF THE CHURCH SHOWING THE LIE OF THE PROPERTY. R.P Nos.425 & 454 of 2019 7 ANNEXURE A1(m) TRUE COPY OF THE ORDER DATED 31.7.2017 ISSUED BY THE ADDITIONAL DISTRICT MAGISTRATE ERNAKULAKM IN PROCEEDINGS NO.M6- RESPONDENTS' EXHIBITS: NIL. True Copy P.S to Judge smp

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