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Dharmajan Vs. The District Collector

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Court : Kerala

Decided On : Apr-08-2015

Judge : Honourable Mr. Justice a.K.Jayasankaran Nambiar

Appellant : Dharmajan

Respondent : The District Collector

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON WEDNESDAY, THE8H DAY OF APRIL201518TH CHAITHRA, 1937 WP(C).No. 9839 of 2015 (D) ---------- PETITIONER : ---------- DHARMAJAN DHANYA NIVAS, PANAVALLY P.O., CHERTHALA ALAPPUZHA. BY ADVS.SRI.BASANT BALAJI SMT.RENY ANTO RESPONDENTS : ---------- 1. THE DISTRICT COLLECTOR CIVIL STATION, ALAPPUZHA - 688 007.

2. THE SUB DIVISIONAL MAGISTRATE ALAPPUZHA - 688 566.

3. THE VILLAGE OFFICER PANAVALLY VILLAGE, ODAMPALLY, CHERTALAI - 688 566.

4. THE SUB INSPECTOR OF POLICE PANAVALLY POLICE STATION, PANAVALLY CHERTALAI - 688 566.

5. SIVADASAN MATTATHIL, PANAVALLY P.O., CHERTALAI ALAPPUZHA - 688 566. R1 TO R4 BY SR. GOVT. PLEADER SRI. JOSEPH GEORGE R5 BY ADVS. SRI.K.M.FIROZ SMT.M.SHAJNA SRI.S.KANNAN THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON0804-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Mn ...2/- WP(C).No. 9839 of 2015 (D) ---------- APPENDIX PETITIONERS' EXHIBITS : ---------- EXT.P1: TRUE COPY OF THE SALE DEED NO. 2486/94 OF PANAVALLY SUB REGISTER OFFICE, DATED2007/1994. EXT.P2: TRUE COPY OF THE OWNERSHIP CERTIFICATE NO. 480/2015 DATED1201/2015 ISSUED BY THE SECRETARY, PANAVALLY GRAMA PANCHAYATH. EXT.P3: TRUE COPY OF THE COMPLAINT DATED0312/2014 FILED BY THE PETITIONER BEFORE THE3D RESPONDENT. EXT.P4: TRUE COPY OF THE REPORT SENT BY THE3D RESPONDENT TO THE TAHSILDAR CHERTHALAI DATED2612/2014. EXT.P5: TRUE COPY OF THE LETTER NO. D1-22656/2014(I) DATED2401/2015. EXT.P6: TRUE COPY OF THE PHOTOGRAPHS EVIDENCING THE INSTALLATION OF THE OBSTRUCTION. EXT.P7: TRUE COPY OF THE COMPLAINT DATED1202/2015 FILED BY THE PETITIONER BEFORE THE2D RESPONDENT. EXT.P8: TRUE COPY OF THE

ORDER

NO. F11452015 DATED2402/2015 OF THE2D RESPONDENT. EXT.P9: TRUE COPY OF THE COMPLAIANT FILED BY THE PETITIONER BEFORE THE DEPUTY SUPERINTENDENT OF POLICE, CHERTHALAI DATED1903/2015. EXT.P10: TRUE COPY OF THE COMPLAINT SENT BY THE PETITIONER TO THE2D RESPONDENT ON2003/2015. EXT.P11: TRUE COPY OF THE MARRIAGE INVITATION OF THE PETITIONERS DAUGHTER. RESPONDENT(S)' EXHIBITS : ---------- EXT. R5(a) COPY OF THE OBJECTION SUBMITTED BY THIS RESPONDENT BEFORE THE2D RESPONDENT DT. 8.3.2015. EXT. R5(b) PHOTOGRAPHS OF APORTION OF OUR PROPERTY AFTER THE ILLEGAL ACTS COMMITTED BY THE PETITIONER. EXT. R5(c) COPY OF THE MAHAZAR DATED14.2015 PREPARED BY THE VILLAGE OFFICER, PANAVALLY. //TRUE COPY// P.S. TO JUDGE Mn P.R.RAMACHANDRA MENON, J.

========== W.P.(C) No.9839 of 2015 ========== Dated this the 8th day of April, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

1. Issue a writ pf mandamus or any other appropriate writ, order or direction, commanding the respondents 2 and 4 to implement Ext.P8 in letter and spirit within a time to be fixed by this Hon'ble Court. 2) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 2nd respondent to take action on Ext.P10 within a time to be fixed by this Hon'ble Court. 3) Such other reliefs that are appropriate and incidental to this writ petition.

2. The case projected by the petitioner, who allegedly belongs to a poor strata of the society, is that he is in ownership, possession and enjoyment of just 4 cents of land and is residing with his family in a thatched hut. The petitioner is having a right of way to the property, which according to the petitioner, is being obstructed by the 5th respondent. The steps taken by the petitioner to alert the other respondents did not turn to be fruitful and hence, the writ petition, particularly on the eve of the W.P(C) No.9839 of 2015 2 marriage of the daughter of the petitioner which was fixed on 06.04.2015. After service of notice on admission and after hearing both the sides, this Court orally directed the Government Pleader to take all necessary steps to see that no blockage of any nature was caused to the marriage of the daughter of the petitioner, which was scheduled on 06.04.2015. This was more so, in the light of Ext.P8 proceedings dated 24.02.2015 issued by the RDO, invoking the power of procedure under Section 145 of the Code of Criminal Procedure.

3. The learned Government Pleader submits that all necessary arrangements were taken and accordingly, no untoward incident has happened and the marriage is already over. The rest is with regard to the proceedings to be finalised in accordance with law by the competent authority.

4. The 5th respondent has filed a counter affidavit, also producing a copy of the statement of objections filed before the 2nd respondent as Ext.R5(a). Today, an

additional counter affidavit has also been filed producing copies of some additional documents as Exts.R5(b) and R5(c), to substantiate the contention of the said respondent that the petitioner does not W.P(C) No.9839 of 2015 3 have any right of way through the property and that the property concerned exclusively belongs to the said respondent.

5. This Court does not intend to express anything with regard to the merits of the case or as to the manner in which the proceedings are to be finalised by the concerned respondent/authority. The proceedings which are pending before the 2nd respondent are to be taken to a logical conclusion.

6. In the said circumstance, there will be a direction to the 2nd respondent to consider the matter forming the basis for issuance of Ext.P8 and finalise the same after considering the objections preferred by the 5th respondent and also after affording an opportunity of hearing to the petitioner as well as the 5th respondent, which shall be done at the earliest, at any rate, within one month from the date of receipt of a copy of this judgment. It is made clear that the steps taken by the concerned respondent, pursuant to the direction given by this Court so as to conduct the marriage of the daughter of the petitioner, by itself, will not give any added advantage to the petitioner with regard to the case sought to be projected by him before the 2nd respondent. The matter shall be independently considered with W.P(C) No.9839 of 2015 4 proper application of mind and appropriate orders shall be passed by the 2nd respondent as aforesaid, in accordance with law. 'Status quo' will continue till such time and that will be subject to the orders to be passed by the 2nd respondent. The writ petition is disposed of accordingly. The petitioner shall produce a copy of this judgment along with a copy of this writ petition before the concerned respondent for further steps. Sd/- P.R.RAMACHANDRA MENON, JUDGE vdv

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