

Taiju Vs. Additional District Magistrate

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Court : Kerala

Decided On : Aug-10-2015

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Taiju

Respondent : Additional District Magistrate

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON & THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH MONDAY, THE 10TH DAY OF AUGUST 2015 19TH SRAVANA, 1937 WA.No. 1483 of 2015 IN WP(C).15541/2015 ----- AGAINST THE

JUDGMENT

IN WP(C) 15441/2015 of HIGH COURT OF KERALA DATED 23-06-2015 -----
APPELLANT/APPELLANT IN WPC : ----- TAIJU,
AGED 43 YEARS S/O. JOSE, MANALI PARAMBIL LHOUSE, PERIGANDOOOR
THRISSUR. BY ADV. SRI.T.RAJASEKHARAN NAIR
RESPONDENTS/RESPONDENTS IN WPC : ----- 1.
ADDITIONAL DISTRICT MAGISTRATE THRISSUR-680 001.

2. THE ASSISTANT EXECUTIVE ENGINEER ELECTRICAL SUB DIVISION,
KSEB, WADAKANCHERY THRISSUR DISTRICT-680 582.

3. SMT. SREERENJINI D/O. VELAYUDHUN NAIR, AYYAPPATH HOUSE, PERIGANDOOR PIN-680 581.

4. SMT. SARTHAMMA P. PULIYAMKOTTUVEEDU, PERIGANDOOR, THRISSUR-680 581. BY ADV. SRI.C.A.CHACKO - R3 BY ADV.SMT.GEETHA POTTI - R4 BY SR. GOVERNMENT PLEADER SRI.M.MOHAMMED SHAFI -R1 BY SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB - R2 THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON1008-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: P. R. RAMACHANDRA MENON & BABU MATHEW P. JOSEPH, JJ.

----- W. A. No.1483 of 2015
----- Dated this the 10th day of August, 2015

JUDGMENT

P. R. Ramachandra Menon, J.

This is the second or third round of litigation that is being pursued by the appellant/writ petitioner before this Court to cause the electric line passing through his property to be shifted, so as to enable him to construct a residential building in the property.

2. Heard the learned counsel appearing for the appellant, the learned counsel appearing for the respondents 3 and 4, learned Standing Counsel appearing for the Electricity Board and the learned Government Pleader appearing for the first respondent.

3. In view of the subsequent developments brought to the notice of this Court, it is not much necessary to go into the facts much, but for making a reference to Ext.P7 W. A. No.1483 of 2015 -2- judgment in W.P.(C) No.509 of 2015 dated 25/02/2015, whereby the alternate route suggested was also directed to be considered by the Additional District Magistrate. The learned counsel for the appellant submits that application preferred for causing the shifting of electric line was considered by the Board and appellant was required to satisfy the requisite amount, which stands satisfied. It was thereafter, that the things took a different

turn which made the appellant to approach this Court by filing W.P.(C) No.15541 of 2015.

4. During the pendency of the said writ petition, an Advocate Commissioner was deputed by the learned single Judge, who submitted detailed report dated 09/06/2015, the relevant portion of which (as contained in paragraph 8 of the said report) reads as follows: "8. On a perusal of the entire sketch the most feasible route seems to be the new proposal made by second respondent in Ext.P10 but with a change. The post is presently proposed to be laid on the western side of the property of the petitioner within a distance of 1 metre from the boundary inside the basement. On inspection it is W. A. No.1483 of 2015 -3- seen that towards the north western side of the basement there is a survey stone at a gap of almost 1 metre. If the proposed post is put outside the basement in between the survey stone and boundary of the petitioner then as shown in Ext.P10 the line can be drawn in a straight manner by changing the meter of 4th respondent's house to the western side and then the same will pass only through the boundary of the proposed residential building of petitioner. A sketch that throws light into the said route is produced herewith." However, instead of giving a positive direction, the learned single Judge directed the first respondent to pass fresh orders after hearing all the parties and Ext.P12 therein was set aside, so as to facilitate such exercise. This, according to the appellant, was not at all correct or proper and it has resulted in irreparable injury and hardship to the appellant and hence, the appeal.

5. When the matter came up for consideration before this Court on 10/07/2015, the parties were required to get instructions with regard to the drawing of 'line' as suggested by the Advocate Commissioner. It was subsequently brought to the notice of this Court that, the first respondent/ADM himself had visited the spot with notice to the parties and W. A. No.1483 of 2015 -4- that the issue was sought to be settled amicably. Today, it is brought to the notice of this Court that the matter has become final at the hands of the ADM by passing order No.C4-S.R/ET/33/2015(1)Kdis. dated 03/08/2015, whereby the disputed line has been ordered to be shifted in the manner as specified therein, which in turn will not cause any prejudice to any of the parties. Appropriate directions have also been

given as to the meeting of the expenses, to the requisite extent, by the parties concerned.

6. Learned counsel for the appellant points out that there is no grievance for the appellant with regard to the order passed by the ADM, except to the extent that an attempt might be made to see whether the 'post' could be planted in a corner/side border of the property belonging to the appellant without causing the foundation of the compound wall to be demolished. Demolition of the foundation of the compound wall will not be beneficial to anybody, but for causing unnecessary and avoidable loss to the appellant. The learned counsel submits that the W. A. No.1483 of 2015 -5- appellant does not have any objection in planting the post with close proximity to the compound wall and that the matter might be disposed of, to cause the said aspect also to be considered by the authorities of the Electricity Board while implementing the order passed by the ADM. In view of the culmination of the proceedings as above, this Court finds it fit and proper to dispose of the appeal recording the subsequent developments including passing of the order dated 03/08/2015 by the first respondent. The authorities of the Electricity Board shall implement the same immediately, subject to the modification, if possible, to the extent as mentioned above. This writ appeal is disposed of. Sd/- P. R. RAMACHANDRA MENON JUDGE Sd/- BABU MATHEW P. JOSEPH JUDGE kns/- //True copy// P. A. to Judge W. A. No.1483 of 2015 -6-