

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.SURENDRA MOHAN

FRIDAY, THE 30TH APRIL 2010 / 10TH VAISAKHA 1932

WP(C).No. 13974 of 2010(V)

PETITIONER(S):

**JOY E.R., S/O.RAPPAL,
AGED 42 YEARS, ELUVATHINGAL HOUSE, OLLUR P.O.,
OLLUR VILLAGE, THRISSUR.**

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT(S):

- 1. THE REVENUE DIVISIONAL OFFICER,
THRISSUR-3.**
- 2. VILLAGE OFFICER,
OLLUR VILLAGE, THRISSUR DISTRICT.**
- 3. SUB INSPECTOR OF POLICE,
OLLUR - POLICE STATION,
THRISSUR DISTRICT.**
- 4. VARGHESE, S/O.DEVASSY,
THEKKEKARA MALIYAKKAL HOUSE,
OLLUR P.O., NEAR ST.RAPHEAL SCHOOL,
THRISSUR DISTRICT.**

R1 TO R3 BY GOVT. PLEADER MR.V. MANU.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30/04/2010,THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

Dated this the 30th day of April, 2010

JUDGMENT

The petitioner is the owner of a residential property, in Survey No.820 of Ollur Village. He has been residing in his house in the said property for the past more than 20 years. The 4th respondent is the adjacent house owner. According to the petitioner, a coconut tree standing in the 4th respondent's property is remaining slanting into the property of the petitioner. The said coconut tree poses serious danger to the petitioner, his property and his family members. Frequent falling of coconuts and dry fronds into the petitioner's property is a threat even to his life. He alleges that it has fallen on him, many a time. Therefore, he submitted a complaint to the first respondent on 22.12.2008. The first respondent forwarded the same to the second respondent for enquiry and report. Thereafter, no orders have been passed thereon till date.

2. In the above circumstances, the 4th respondent filed a complaint to the first respondent alleging that coconut trees standing in the property of the petitioner were posing danger and threat to the 4th respondent's

property. It is alleged that the first respondent has immediately passed an exparte order directing the petitioner to cut and remove the coconut trees standing at the back of the petitioner's house. However, a copy of the order has not been served on the petitioner yet. On getting information of the said order, the petitioner appeared through counsel before the first respondent and submitted that Ext.P1 complaint was still pending. Therefore, he prayed that both the complaints may be taken up and considered together. Though the first respondent assured the petitioner that both the complaints would be considered together and appropriate orders passed, on 20.2.2009 the first respondent passed an order making the earlier interim order absolute, without hearing the petitioner. Therefore, he challenges Ext.P2 order of the first respondent.

3. I notice that Ext.P2 is an order passed under Section 136 of the Code of Criminal Procedure. Since the remedy of the petitioner is to challenge the said order in revision under the provisions of the Code of Criminal Procedure, I do not find any justification to interfere with the same. Therefore, the liberty of the petitioner to

challenge Ext.P2 in appropriate proceedings under the Code of Criminal Procedure is left open.

4. The next complaint of the petitioner is that no orders have been passed by the first respondent on his complaint dated 26.12.2008. It is the further case of the petitioner that the complaint had been forwarded for enquiry to the second respondent. The said complaint, evidenced herein by Ext.P1 is still pending consideration of the second respondent.

5. In the above circumstances, this Writ Petition is disposed of directing the first respondent to consider Ext.P1 complaint of the petitioner in accordance with law and to pass appropriate orders thereon, as expeditiously as possible and at any rate within a period of six weeks from the date of receipt of a copy of this judgment. The petitioner shall produce a copy of this judgment before the second respondent for prompt compliance.

**K.SURENDRA MOHAN,
JUDGE**

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