

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

&

THE HONOURABLE MR. JUSTICE K.SURENDRA MOHAN

MONDAY, THE 31ST JANUARY 2011 / 11TH MAGHA 1932

WP(C).No. 27241 of 2009(A)

PETITIONER(S):

SAJU.P.P., AGED 48 YEARS,
S/O.PATHROSE @ PURAVATH, PALLATHADATHIL HOUSE,
VELIYANAD P.O., EDAKKATTUVAYAL VILLAGE,
AARAKKUNNAM VIA., ERNAKULAM DISTRICT.

BY ADV. SRI.E.D.GEORGE

RESPONDENT(S):

1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, DEPARTMENT OF
HOME AFFAIRS, GOVT.SECRETARIAT,
THIRUVANANTHAPURAM.
2. TEH SUPERINTENDENT OF POLICE
ERNAKULAM (RURAL), ALUVA.
3. CIRCLE INSPECTOR OF POLICE,
PIRAVOM.
4. SUB INSPECTOR OF POLICE,
MULANTHURUTHI.
5. KUTTAN DAMAODARAN, AGED ABOUT 56 YEARS,
S/O.KUTTAN, PALLATHADATHIL HOUSE,
VELIYANAD P.O., EDAKKATTUVAYAL,
AARAKKUNNAM, ERNAKULAM.
6. SARASWATHI DAMODARAN,
AGED ABOUT 45 YEARS, W/O.DAMODARAN,
PALLATHADATHIL HOUSE, VELIYANAD P.O.,
EDAKKATTUVAYAL, AARAKKUNNAM,
ERNAKULAM.

R1 TO R4 BY GOVERNMENT PLEADER SRI.T.K.VIPINDAS
R5& R6 BY ADV.SRI.R.O.MUHAMED SHEMEEM
SMT.NASEEHA BEEGUM P.S.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 31/01/2011, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE JUDGMENT DATED 31/1/2002 IN O.S.NO.1308/2000 OF THE II ADDL.MUNSIFF'S ERNAKULAM.
- P2 COPY OF THE DEED DATED 31/10/2003 EXECUTED IN FAVOUR OF THE PETITIONER ALONGWITH PLAN OF THE PROPERTY.
- P3 COPY OF THE JUDGMENT AND ORDER DATED 25/2/2005 IN A.S.108/2004 AND ORDER IN I.A.894/2004 IN A.S.108/2004 OF THE 1ST ADDL.DISTRICT COURT, ERNAKULAM.
- P4 COPY OF THE RECEIPT OF THE PETITION FILED BY THE PETITIONER AND HIS WIFE BEFORE THE MULANTHURUTHY POLICE STATION DATED 20/3/2008.
- P5 COPY OF THE PETITION DATED 13/11/2008 FILED BY THE PETITIONER'S WIFE BEFORE THE MULANTHURUTHY POLICE ALONGWITH RECEIPT.
- P6 COPY OF THE PETITION FILED BY THE PETITIONER'S WIFE BEFORE THE MULANTHURUTHY POLICE ON 05/01/2009.
- P7 COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE DY.S.P. MUVATTUPUZHA.
- P8 COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE C.I. OF POLICE PIRAVOM
- P9 COPY OF THE FIR IN CRIME NO.1083/2009 DATED 09/11/2009.
- P10 COPY OF THE MEDICAL CERTIFICATE
- P11 COPY OF THE FIR AND F.I. STATEMENT IN CRIME NO.271/2010 DATED 27/3/2010.
- P12 COPY OF THE DELIVERY WARRANT DATED 16/1/2004
- P13 COPY OF THE DIRECTION ISSUED BY THE MUNSIFF COURT TO THE VILLAGE OFFICER DATED 8/1/2004.
- P14 COPY OF THE REPORT OF THE VILLAGE OFFICER DATED 7/2/2004.
- P15 COPY OF THE DELIVERY WARRANT DATED 7/2/2004 DELIVERY REPORT OF THE AMEEN AND THE DELIVERY RECEIPT.
- P16 COPY OF THE PETITION FILED BY THE PETITIONER BEFORE RESPONDENT NO.4.ON 4/1/2011.
- P17 COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE 4TH RESPONDENT ON 12/1/2011.
- P18 COPY OF THE ENCUMBRANCE CERTIFICATE ISSUED FROM THE REGISTRATION DEPARTMENT.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

sts

P.A.TO.JUDGE

R.BASANT & K.SURENDRA MOHAN, JJ.

W.P(C) No.27241 of 2009-A

Dated this the 31st day of January, 2011

JUDGMENT

BASANT, J.

The petitioner has come to this Court with this petition for issue of directions under Article 226 of the Constitution of India to respondents 1 to 4 to afford police protection to the petitioner for the enjoyment of property delivered to him under Ext.P15 without any obstruction from respondents 5 and 6.

2. According to the petitioner, 15 cents of property belonged originally to respondent No.6. The 5th respondent is the husband of the 6th respondent. The 6th respondent had agreed to sell the property to the petitioner and for specific performance of the said agreement, a suit was filed. The same was decreed. Ext.P1 is the judgment. An appeal was taken. The same was dismissed. Ext.P2 is the deed of sale executed by the court on behalf of the 6th respondent in execution. At long last, the property was delivered through court under Ext.P12 delivery kaichit. According to the petitioner, the 6th respondent, the party bound by the decree and the execution proceedings, and her husband, the 5th respondent, are raising untenable, illegal,

wanton, culpable and violent objections to the enjoyment of the property by the petitioner. It is, in these circumstances, that the petitioner has come to this Court with this petition for issue of directions under Article 226 of the Constitution.

3. Service is complete. The 5th and 6th respondents have not chosen to file any counter statement. Today when the matter came up for hearing, there is no representation for respondents 5 and 6. It is brought to our notice that interim orders were passed by this Court on 07.10.2009 and 05.07.2010. Such orders have been extended from time to time and are in force even now.

4. The learned Government Pleader on behalf of the police officials/respondents submits that interim orders are being implemented scrupulously. The learned Government Pleader submits that the interim orders can now be made absolute and this proceedings can be closed.

5. We have considered all the relevant inputs. We note that there is no representation for respondents 5 and 6. They have not filed any objections before this Court. The documents make it clear that, with the 6th respondent as a party in the party array, the dispute was resolved and the property was

delivered to the petitioner under Ext.P15. The petitioner's prayer for police protection without any obstruction from respondents 5 and 6, it appears to us to be, absolutely reasonable in the circumstances of the case. We particularly take note of the fact that no objection whatsoever has been raised and the interim orders have remained in this case from 07.10.2009 onwards.

6. This petition is accordingly allowed. Interim orders are made absolute. Respondents 2 to 4 are directed to afford protection for the petitioner to enjoy the property delivered to him under Ext.P15 without any illegal obstruction or objection from respondents 5 and 6.

(R.BASANT, JUDGE)

(K.SURENDRA MOHAN, JUDGE)

rtr/