

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

Con.Case(C).No. 1239 of 2015 (S) IN OP(C).1137/2015

OP(C) 1137/2015 of HIGH COURT OF KERALA DATED 09.06.2015

PETITIONER/2ND PETITIONER IN WP[C]:

BHAVANI ALIAS DEVAYANI, AGED 66 YEARS,
HOUSEWIFE, W/O.KUMARAN, MUTHALAKUDATHU HOUSE,
AVITTATHUR DESOM, KADUPPASSERY VILLAGE,
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

BY ADV. SRI.V.M.KRISHNAKUMAR

RESPONDENT/2ND RESPONDENT IN THE WP[C]:

SATHYAN K.K.,
AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER,
ASSISTANT EXECUTIVE ENGINEER, P.W.D. ROADS DIVISION,
PWD ROADS DIVISION OFFICE, KODUNGALLUR,
THRISSUR DISTRICT, PIN-680 662.

BY GOVERNMENT PLEADER SMT.MAYA

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN
FINALLY HEARD ON 26-11-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

DSV/26/11/15

Con.Case(C) .No. 1239 of 2015 (S) IN OP(C) .1137/2015

APPENDIX

PETITIONER' S ANNEXURES :

- I COPY OF THE PLAINT IN OS NO.1727/2011 OF THE MUNSIFF' S COURT, IRINJALAKUDA.
- II COPY OF THE ORDER IN IA NO.1302/2013 IN OS NO.1727/2011 DATED 08.07.2014 OF THE PRINCIPAL MUNSIFF' S COURT, IRINJALAKUDA.
- III COPY OF THE APPEAL MEMORANDUM IN CMA NO.19/2014 OF THE SUB COURT, IRINJALAKUDA.
- IV COPY OF THE INTERIM ORDER DATED 15.05.2015 IN W.P. (C) NO.1137/2015.
- V COPY OF THE JUDGMENT IN OP(C)NO.1137/2015 DATED 09.06.2015.
- VI COPY OF THE PHOTOGRAPH SHOWING THE FILLED UP WELL.
- VII COPY OF THE REPORT DATED 14.05.2015 IN DESABHIMANI DAILY.
- VIII COPY OF THE COMMISSION REPORT IN I.A.NO.3451/2012 IN OS NO.1727/2011 DATED 16.01.2013.

RESPONDENT' S ANNEXURES :

- R1 (A) COPY OF THE COMMUNICATION OF ADDITIONAL GOVERNMENT PLEADER DATED 04.05.2015.
- R1 (B) COPY OF MINUTES DATED 17.06.2015.
- R1 (C) COPY OF THE COMMUNICATION DATED 15.07.2015 FROM THE ADVOCATE GENERAL' S OFFICE.

// True Copy //

P.A. To Judge

DSV/26/11/15

B.KEMAL PASHA, J.

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Cont. Case (C) No. 1239 of 2015

in

O.P.(C).No.1137 of 2015

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Dated this the 26th day of November, 2015

J U D G M E N T

Heard the learned counsel for the petitioner.

2. On 09.06.2015, this Court has passed a judgment, whereby directing the learned Principal Sub Judge, Irinjalakuda to dispose of C.M.A.No.19 of 2014 expeditiously within a specific time frame. In the said judgment, it was made clear that the interim order passed by the court below would continue till the disposal of the C.M.A.

3. Contempt proceedings are moved on the averment that the respondent has filled in a well, which was also a subject

matter of the suit as well as the C.M.A., by making use of a JCB, thereby violating the order passed by this Court as well as the court below. The respondent has filed a detailed affidavit affirming that the respondent was not really aware of the judgment of this Court. It has been affirmed that, had it been known to him, he would not have filled in the well situated in the PWD *puramboke* land.

4. Over and above it, the respondent has made unconditional apology for the acts done by him. On hearing either side, this Court is of the view that the contemner can be excused for the said violation. It has been brought to the notice of this Court that presently an I.A. has been moved before the court below for the restoration of the well through an order of mandatory injunction. Of course, the court below shall decide the said matter and pass appropriate orders in accordance with

law, on merits.

With the said observations, the contempt proceedings in this matter are closed.

Sd/-

B.KEMAL PASHA
JUDGE

DSV/26/11/15

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P.A. To Judge