

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

OP(C).No. 1886 of 2015 (O)

IA.NO.59/2015 IN A.A.NO.17/2013 OF APPELLATE AUTHORITY(LR), THRISSUR.
.....

PETITIONER:

**P.V.GAFOOR, S/O KHADER, AGED 42 YEARS,
PALLIVALAPPIL HOSUE, KOOTTAYI POST,
PARAVANNA VIA, MANAGALAM, TIRUR,
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.K.P.SUDHEER
SRI.YJAFAR KHAN**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF REVENUE, SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. P.V.SAIDALI, S/O KASMI, PALLIVALAPIL HOSUE,
KOOTTAYI POST, PARAVANNA (VIA), MANGALAM,
TIRUR, MALAPPURAM DISTRICT, PIN:676562.**

R1 BY GOVERNMENT PLEADER SRI.REJI JOSEPH

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 06-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1: TRUE COPY OF ORDER DATED 14.5.2010 IN O.A.NO.7/2008 ISSUED BY LAND TRIBUNAL, TIRUR.
- EXHIBIT P2: TRUE COPY OF APPEAL MEMORANDUM IN A.A.NO.17/2013 FILED BY PETITIONER AND FOUR OTHERS BEFORE THE APPELLATE AUTHORITY (LAND REFORMS), THRISSUR.
- EXHIBIT P3: TRUE COPY OF IA NO.64/2014 IN A.A.NO.17/2013 FILED BY PETITIONER AND OTHERS BEFORE THE APPELLATE AUTHORITY.
- EXHIBIT P4: TRUE COPY OF ORDER DATED 28.3.2014 IN IA NO.64/2014 IN A.A.NO.17/2013 PASSED BY APPELLATE AUTHORITY (LR), THRISSUR.
- EXHIBIT P5: TRUE COPY OF OBJECTION DATED 2.12.2014 IN I.A.NO.37/2013 IN A.A.NO.17/2013 FILED BY THE 2ND RESPONDENT BEFORE THE APPELLATE AUTHORITY, THRISSUR.
- EXHIBIT P6: TRUE COPY OF I.A.NO.59/2015 IN A.A.NO.17/2013 FILED BY THE PETITIONER AND OTHERS DATED 8.6.2015 BEFORE THE APPELLATE AUTHORITY, THRISSUR.
- EXHIBIT P7: TRUE COPY OF OBJECTION FILED BY THE 2ND RESPONDENT TO EXT.P6.
- EXHIBIT P8: TRUE COPY OF ORDER DATED 13.7.2015 IN I.A.NO.37/2013 IN A.A.NO.17/2013 PASSED BY APPELLATE AUTHORITY (LR), THRISSUR.
- EXHIBIT P9: TRUE COPY OF ORDER DATED 13.7.2015 IN IA NO.59/2015 IN AA NO.17/2013 PASSED BY APPELLATE AUTHORITY (LR), THRISSUR.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

B. KEMAL PASHA, J.

.....
O.P.(C) No.1886 of 2015
.....

Dated this the 6th day of August, 2015

J U D G M E N T

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It seems that initially an order of status quo was passed by the Appellate Authority in the matter, through Ext.P4 order. Subsequently, the 2nd respondent started construction of a building in the property purchased by him by way of 'kudikidapu'. When the construction was in progress, again, the petitioner has filed Ext.P6 IA seeking an order of temporary injunction for restraining the 2nd respondent from continuing with any construction. Through Ext.P9 order, the court below has dismissed the IA.

2. Heard learned counsel for the petitioner, learned Government Pleader and and learned counsel for the 2nd respondent.

3. It seems that Ext.P9 is not a speaking order. The court below has decided Ext.P7 in the following words:-

“I have heard both counsels and dismissed the petition seeking an injunction as it is not necessary to grant an injunction as prayed for.”

At any stretch of imagination, the order cannot be sustained. The Appellate Authority has not adverted to the rival contentions for passing the order. As Ext.P9 order is not a speaking order, the said order is liable to be set aside.

In the result, this O.P.(Civil) is allowed and Ext.P9 order is set aside. The matter is remitted to the Appellate Authority for fresh disposal in accordance with law, after hearing both sides, within a period of two weeks from the date of receipt of a copy of this judgment. The appeal itself is ripe for disposal and in such case, the Appellate Authority can also expedite the disposal of the appeal itself.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/06/08

// True Copy //

PA to Judge