

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

&

THE HONOURABLE SMT. JUSTICE P.V. ASHA

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WA.No. 1228 of 2009 ()

AGAINST THE JUDGMENT IN WP(C) 30307/2007 of HIGH COURT OF KERALA
DATED 30-03-2009

APPELLANT(S)/PETITIONERS:

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1. B.SHANMUGHAN, REMA BHAVAN,
KADAKKAL JUNCTION, KADAKKAL.P.O., KOLLAM DIST.
 2. N.T.RAJAN, KOCHU VEEDU, KADAKKAL.P.O.
KADAKKAL VILLAGE.
 3. A.ABDUL RAHMAN, THUNDUVILA VEEDU,
KADAKKAL.P.O. KADAKKAL VILLAGE.
 4. M.SHAHUL HAMEED, THADATHILVILA
PUTHEN VEEDU, KADAKKAL.P.O., KOLLAM DIST.
 5. RAJENDRAN, R.S.NIVAS, PULLANIYODE,
KADAKKAL.P.O., KOLLAM DIST.
 6. MOHAMMED BASHEER, VENGOTTKONATH VEEDU,
KUMMIL VILLAGE, ANAPPARA MURI, KOLLAM DIST.

BY ADVS.SRI.DEVAN RAMACHANDRAN
SRI.K.M.ANEESH

RESPONDENT(S):

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1. THE STATE OF KERALA REP. BY ITS
SECRETARY, MINISTRY OF LOCAL SELF GOVERNMENT
THIRUVANANTHAPURAM.
 2. THE DISTRICT COLLECTOR, COLLECTORATE
KOLLAM.
 3. THE EXECUTIVE ENGINEER, P.W.D.,
KOTTARAKKARA.
 4. THE TAHSILDAR, KOTTARAKKARA TALUK
KOTTARAKKARA.P.O., KOLLAM.
 5. THE VILLAGE OFFICER, KADAKKAL VILLAGE,
KOLLAM DIST.
 6. THE KADAKKAL GRAMA PANCHAYATH,
REP. BY ITS SECRETARY, KADAKKAL.P.O. KOLLAM DIST.

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7. R.SREEKUMAR, PRESIDENT, KADAKKAL
GRAMA PANCHAYATH, KADAKKAL.P.O., KOLLAM DIST.

8. THE TALUK SURVEYOR, TALUK OFFICE,
KOTTARAKKARA.P.O., KOLLAM DIST.

R,R6 & 7 BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR
R1 TO R5, R8 BY GOVERNMENT PLEADER SRI.T.J.MICHAEL.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 01-09-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & P.V.ASHA, JJ.

W.A.No.1228 of 2009

Dated this the 1st day of September, 2015

JUDGMENT

Antony Dominic, J.

1.This appeal is filed against the judgment in W.P(C). 30307/07, which was filed by the appellants themselves. In the writ petition, the main prayer was to direct respondents 1 and 2 to immediately cause an investigation into the allegations in the writ petition and in Exts.P5 and P6 representations. They also wanted that action be initiated against respondents 3 to 8 for the alleged illegal demolition of the appellants' shop rooms and for trespassing to their property. By the judgment under appeal, learned single Judge dismissed the writ petition on the premise that considering the nature of the dispute involved, remedy, if any, available to the appellants can only be before a civil court. It is this judgment which is under challenge.

2.The basis on which the relief is sought for by the appellants is that the shops on the side of the

Kadackal-Chengamanad road were demolished by the respondents trespassing into their property. However, in Ext.P8 itself, it is stated that the action of the respondents was confined to the encroachments in the puramboke land and that action was initiated after the boundaries of the property were got demarcated on the basis of a survey by the Taluk Surveyor, which was conducted after notice to all concerned. Therefore, essentially, the dispute raised by the appellants and to be resolved is one regarding the boundary of the property and such a dispute cannot be resolved in a proceedings under Article 226 of the Constitution of India. This reasoning of the learned single Judge, on the basis of which relief was declined to the appellants, cannot be said to be illegal. We do not find any reason to interfere with the judgment under appeal.

Appeal fails and is accordingly dismissed.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
P.V.ASHA, Judge.

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