

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 12232 of 2010 (O)

O.S.NO.99/2008 of SUBORDINATE JUDGE, PAYYANNUR

PETITIONER:

PODUVAL PROPERTIES PVT. LTD,
REPRESENTED BY ITS MANAGING DIRECTOR AND
CHAIRMAN K.A.NARAYANA PODUVAL, SON OF LATE
SEKHARA PODUVAL, AGED 86 YEARS, ASTROLOGER
PAYYANNUR AMSOM, KOKKANASSERY DESOM,
TALIPPARAMBA TALUK, KANNUR DISTRICT

BY ADVS.SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SRI.K.JOHN MATHAI
SRI.P.BENNY THOMAS
SRI.P.GOPINATH

RESPONDENTS:

1. UTHAMATHIL NARAYANAN, SECRETARY,
VIDYAMANDIR COLLEGE, THAYATHUVAYAL PARAMBA
PAYYANNUR AMSOM, KOKKANASSERY DESOM,
TALIPPARAMBA TALUK, KANNUR DISTRICT.
2. S.K.MUHAMMED,
PAYYANNUR MUNICIPAL COUNCILLOR,
THAYATHUVAYAL PARAMBA, PAYYANNUR AMSOM
KOKKANASSERY DESOM, TALIPPARAMBA TALUK
KANNUR DISTRICT.

R1 & R2 BY ADV. SRI.M.SASINDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS:

- EXHIBIT-P1 : COPY OF THE PLAINT FILED BY THE PETITIONER DATED 18.06.2008 IN THE SUBORDINATE JUDGES COURT, PAYYANNUR. (O.S.NO.99/2008)
- EXHIBIT-P2 : COPY OF THE WRITTEN STATEMENT FILED ON NOVEMBER 2008 BY THE RESPONDENTS TO EXHIBIT-P1 PLAINT. (O.S.NO.99/2008)
- EXHIBIT-P3 : COPY OF THE REPORT FILED BY THE ADVOCATE COMMISSIONER IN I.A.NO.754/2008 IN O.S.NO.99/08 IN EXHIBIT-P1 PLAINT. DATED NIL.
- EXHIBIT-P4 : COPY OF THE REPORT DATED 30.08.08 ALONG with the ROUGH SKETCH FILED BY THE ADVOCATE COMMISSIONER IN I.A.NO.1072/2008 IN O.S.NO.99/08 BEFORE THE SUBORDINATE JUDGES COURT, PAYYANNUR.
- EXHIBIT-P5 : COPY OF THE I.A.NO.1661/2008 FILED BY THE PETITIONER IN O.S.NO.99/2008 BEFORE THE SUBORDINATE JUDGES COURT, PAYYANNUR. DATED NIL.
- EXHIBIT-P6 : COPY OF THE COUNTER STATEMENT DATED 26.11.2008 FILED BY RESPONDENTS IN I.A.NO.1661/08 IN O.S.NO.99/08
- EXHIBIT-P7 : COPY OF THE ORDER DATED 12.12.2008 PASSED BY THE SUBORDINATE JUDGES COURT, PAYYANNUR IN I.A.NO.1661/08 IN O.S.NO.99/08.
- EXHIBIT-P8 : COPY OF THE CIVIL MISCELLANEOUS APPEAL NO.6/2009 PREFERRED BY THE PETITIONER BEFORE DISTRICT JUDGE, THALASSERY DATED 12.01.2009.
- EXHIBIT-P9 : COPY OF THE JUDGMENT DATED 30.01.2010 PASSED BY THE ADDITIONAL DISTRICT JUDGE, THALASSERY UPHOLDING EXHIBIT-P7 ORDER (CMA 6/2009)

RESPONDENT(S) EXHIBITS : NIL

//TRUE COPY//

PA TO JUDGE

SUNIL THOMAS, J

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W.P.(C).12232/2010

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Dated this the 30th day of July, 2015

JUDGMENT

This writ petition arises out of a proceeding in a suit for mandatory injunction. The petitioner herein, as the plaintiff laid O.S.99/2008 before the Sub Court, Payyannur and sought a decree of mandatory injunction. Along with the suit, I.A.No.1661/2008 was filed seeking an interim mandatory injunction, which was declined by the court below. This led to an appeal as CMA No. 6/2009. The appellate court was also not in favour of the appellant and consequently, the appeal was dismissed by Ext. P9 order. This is assailed now.

2. When the matter was taken up, the learned counsel for the writ petitioner submitted that after the dismissal of the appeal the disputed wall has been constructed. In the light of above, no purpose will be served by proceeding with this writ petition. Consequently,

the petition is dismissed, however, with a direction to the trial court to expedite the trial and to complete the trial as early as possible, untrammelled by any of observations made in the judgment of the appellate court.

SUNIL THOMAS
JUDGE

skr