
(2018) 01 KL CK 0055
In the High Court Of Kerala
Case No : 1227 of 2018

K.B.SHANTAKUMARI

APPELLANT

Vs

STATE OF KERALA & ORS.

RESPONDENT

Date of Decision : 16-01-2018

Acts Referred:

Citation : (2018) 01 KL CK 0055

Hon'ble Judges : K.Vinod Chandran, Ashok Menon

Bench : Division Bench

Advocate : ABRAHAM SAMSON, LOVELY SAMSON, SURESH BABU THOMAS, P P THAJUDDIN

Final Decision : Dismissed

Judgement

1. The petitioner is aggrieved with the alleged encroachment into the petitioner's property by the 4th respondent. The petitioner submits that there has been an instance where the lock of the house was broken open on 15.08.2017, against which a complaint has been lodged as per Ext.P3 on 17.08.2017. There has been no action by the respondent Police in the said complaint. It is also submitted that there is continuously a threat from the 4th respondent and Ext.P5 petition was filed seeking protection from the 4th respondent and his henchmen.

2. It is an admitted fact that the petitioner has filed a suit, numbered as O.S. No.535/2013 before the Munsiff's Court, Thiruvalla, for injunction restraining the 4th respondent from entering into his property. It is submitted that there was an injunction application, which was allowed by the Court on admission of the suit itself. However, the said injunction order has not been produced before us. Again, the petitioner, finding the

injunction to be not effective, had filed another application for amendment of the prayer in the injunction application, as is seen from Exhibit P7.

Exhibit P7 is dated 19.11.2013. By Ext.P8 order dated 24.06.2014, the Munsiff's Court, Thiruvalla, had allowed the amendment and directed it

to be carried out within fifteen days. Ext.P9 is a further application filed for mandatory injunction on 22.07.2015. Both the said applications

(Exts.P7 and P9) are said to be pending before the Civil Court.

3. In such circumstance, it would be only proper for this Court to direct the petitioner to approach the Civil Court and prosecute the injunction

applications diligently. We find that one of the injunction applications, by way of amendment, was filed in the year 2013 and the other in the year

2015. We are not made aware of the original injunction order passed in the suit which, even according to the petitioner, is ineffective insofar as the

property of the petitioner is concerned and hence an amendment was filed. When rival claims are being agitated before the Civil Court, it is not

proper for this Court to direct the Police to give protection to one or other of the parties, which would lead to disruption of the status quo, insofar

as the possession and otherwise. We hence desist from making any positive direction in the matter. The parties are left to agitate their cause before

the Civil Court. If at all a complaint is filed by the petitioner alleging offences, the same shall be enquired into and if any cognizable offence is found,

a case shall be registered and investigated. The Police shall also ensure that there is no threat to the life or limb of the parties occasioned; but

without interfering in purely civil disputes. The writ petition is dismissed. No Costs.