
Sudha Devi Vs Circle Inspector of Police and Others

O.P. No. 7894 of 1997 M

Court: High Court Of Kerala

Date of Decision: June 16, 1997

Hon'ble Judges: P.A. Mohammed, J

Bench: Single Bench

Advocate: Anil K. Narendran, for the Appellant; Jose Thettayil, Government Pleader for 1st Respondent and Pirappancode V. Sudhir, for Respondents 2 and 3, for the Respondent

Judgement

P.A. Mohammed, J.

The Petitioner is the owner in absolute possession and enjoyment of 2.125 cents of land in survey number 2460/2/6

of Muttathara Village. Ext. P-1 is the copy of the sale dated 8th March 1994. The case of the Petitioner is that she has filed O.S. No. 688 of 1994

before the Munsiff's Court, Thiruvananthapuram. Third Respondent herein was the sole Defendant in the suit. The second Respondent is the

husband of the third Respondent. judgment in the above suit was delivered on 31st January 1997. The operative portion of the judgment is as

follows:

O.S. No. 688/94 is allowed, restraining the Defendants from encroaching into the plaint schedule property and interfering with the peaceful

enjoyment of the plant schedule property or committing any waste in the property or removing survey stones of land in the eastern boundary of the

plaint schedule property.

The grievance of the Petitioner is that she did not get certified copy of the decree in the above suit though application submitted in time. Execution

petition cannot therefore be presented before Court. However, third Respondent is not obeying the judgment passed by the Court below and is

attempting to interfere with her peaceful possession and enjoyment of the property. The Petitioner as by Ext. P-3 petition submitted before the first

Respondent sought for polite aid for prevention of Respondents 2 and 3 from disobeying the judgment in O.S. No. 688 of 1994.

2. Heard learned Counsel for the Petitioner and also the Respondents 2 and 3. I also heard Government Pleader for first Respondent.

3. Learned Counsel for Respondents 2 and 3 submitted before me that Respondents 2 and 3 are not interfering with the possession and enjoyment

of the land covered by the judgment in O.S. No. 688 of 1994. His case is that the land covered by the judgment in O.S. 688/94 is Government

property. His further case is that third Respondent is aggrieved by the judgment of the Munsiff's Court and therefore proposes to file appeal

against the said judgment. He also submits that third Respondent has not received certified copy of the judgment and decree. The correctness or

otherwise of the judgment passed by the learned Munsiff will have to be decided in the appeal proposed to be filed by the third Respondent.

4. In the meanwhile the judgment passed by the Munsiff shall not be allowed to remain in vacuum and Respondents 2 and 3 shall not be allowed to

disobey the judgment. What is required in this case is obedience to judgment passed by the learned Munsiff in O.S. 688/94 upto the period when

the appellate Court decides the matter, either permanently or temporarily. The question is how obedience to the judgment can be enforced in the

aforesaid situation. Of course, such obedience can be enforced only by resorting to police power and in such circumstances police have the power

to see that the judgment of the Munsiff's Court is obeyed by all parties to the suit. Police shall see by taking appropriate measures that the

judgment of the learned Munsiff in O.S. 688/94 is obeyed by the parties. Of course, this is not a permanent order to be enforced all time. This

order will have the force till a decision is taken on the appeal against the judgment in O.S. 688/94 either interim or final. I therefore direct the first

Respondent to take all measures to see that the judgment of the Munsiff's Court, Thiruvananthapuram in O.S. 688/94 is obeyed by Respondents 2

and 3. The Original Petition is disposed of as above.