

WP(C) NO.9723 OF 2024



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2024:KER:64095

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

THURSDAY, THE 22ND DAY OF AUGUST 2024 / 31ST SRAVANA, 1946

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PETITIONER:

IBRAHIM
AGED 53 YEARS
CHERIYAMADURAKAM, S/O ABDULKHADER.P.S , KADAMATH
ISLAND, UNION TERRITORY OF LAKSHADWEEP, PIN -
682556

BY ADVS.
P.MURALEEDHARAN (THURAVOOR)
T.A.LUXY
KOYA ARAFA MIRAGE
SURESH SUKUMAR
ANZIL SALIM
SANJAY SELLEN

RESPONDENTS:

- 1 THE ADMINISTRATOR
UNION TERRITORY OF LAKSHADWEEP, KAVARATTI, PIN -
682555
- 2 THE SUB DIVISIONAL OFFICER
BLOCK DEVELOPMENT OFFICER, KADAMATH ISLAND, UNION
TERRITORY OF LAKSHADWEEP, PIN - 682556
- 3 STATION HOUSE OFFICER
KADAMATH POLICE STATION,, PIN - 682556

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**4 SHAREEFABI
D/O. ABDULKHADER.P.S , KADAMATH ISLAND,
UNION TERRITORY OF LAKSHADWEEP, PIN - 682556.**

**BY ADVS.
SAJITH KUMAR V.
A.B.JALEEL
A.J.SHAHEER(K/86/2012)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 22.08.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



“C.R.”

JUDGMENT

The petitioner is assailing Ext. P5 communication issued by the Station House Officer, Kadmat Police Station, Kadmat Island, Lakshadweep (3rd respondent) and all further proceedings pursuant thereto.

2. The petitioner claims to be the owner in possession of 355 Sq. meters of land comprised in Sy No. 118/3. It is alleged that he constructed his dwelling house on the said property and also a boundary wall to demarcate the property after obtaining Ext. P3 permission from the 1st respondent. The 4th respondent filed a complaint against the petitioner before the 3rd respondent, alleging that the petitioner encroached on her property. The 3rd respondent, after enquiry, found that the petitioner encroached 70 Sq. metres of land belonging to the 4th respondent and constructed a compound wall. Accordingly, the 3rd respondent issued Ext.P5 communication to the petitioner directing him to remove the



encroachment within fifteen days. Thereafter, the 2nd respondent issued Ext.P6 letter to the 3rd respondent to initiate necessary action pertaining to the alleged encroachment. It is challenging Exts.P5 and P6, this writ petition has been filed.

3. I have heard Sri. Lal K. Joseph, the learned counsel for the petitioner, Sri. V. Sajith Kumar, the learned Standing Counsel for the Lakshadweep Administration and Sri. A. B. Jaleel, the learned counsel for the 4th respondent.

4. The learned counsel for the petitioner submitted that the dispute between the petitioner and the 4th respondent is a civil dispute to be adjudicated by a competent civil court and hence all proceedings pursuant to Exts.P5 and P6 are liable to be quashed. The learned counsel for the 4th respondent submitted that the petitioner trespassed into 70 Sq. metres of land belonging to the 4th respondent, and the action taken by the 3rd respondent was



a legal step to prevent the petitioner from committing criminal trespass into the property of the 4th respondent. The learned Standing Counsel for the Lakshadweep Administration defended the action of the 3rd respondent and submitted that he is competent to issue Ext.P5.

5. A reading of the pleadings in the writ petition, counter affidavit of the 4th respondent and Exts.P5 and P6 would show that there exists a title dispute between the petitioner and the 4th respondent in respect of the property claimed by the petitioner. Ext.P5 discloses that on receipt of the complaint from the 4th respondent, alleging encroachment, the 3rd respondent directed the Block Development Officer, Kadmat, to survey the land and the survey team, after conducting the survey, reported that the petitioner had constructed the compound wall encroaching into the property of the 4th respondent. It was based on the said report, the 3rd respondent gave direction to the petitioner to remove the encroachment.



6. It is not the job of the cops to meddle with or adjudicate civil disputes. The resolution of civil disputes is a matter absolutely within the realm of civil court. The police can intervene only if the law-and-order situation demands and not otherwise. Neither Cr.P.C/BNSS nor the Police Act nor any other law governing the powers and duties of police confers the police the power to adjudicate the disputed question relating to title, possession, boundary, encroachment, etc. No doubt, the police can investigate the allegations in a complaint which discloses a criminal offence, but they do not have the power and authority to act as a civil court to adjudicate the civil dispute set out in the complaint. They are bound to relegate the parties to resolve the civil dispute through a competent civil court or duly constituted ADR Forum. The 3rd respondent virtually assumed the role of a civil court, adjudicated the title dispute between the petitioner and the 4th respondent, found that the petitioner had encroached on a portion of the

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property of the 4th respondent and directed him to remove the encroachment. The said act of the 3rd respondent is one without authority. The 3rd respondent has no case that there was any law-and-order problem. In Ext.P5, the 3rd respondent has directed the petitioner to remove the encroachment within fifteen days. The police have no authority to decide the dispute regarding encroachment on private properties and to direct the parties to remove the encroachment. Therefore, Exts.P5 and P6 are not legally sustainable, and they are hereby quashed.

The writ petition is allowed.

Sd/-
DR. KAUSER EDAPPAGATH
JUDGE

Pvv



APPENDIX OF WP(C) 9723/2024

PETITIONER'S EXHIBITS

- EXHIBIT P1** TRUE COPY OF THE PROCEEDINGS DATED 30/05/2001 OF THE REVENUE COURT OF THE ASSISTANT SETTLEMENT OFFICER ,KADAMATH
- EXHIBIT P2** TRUE COPY OF THE OWNERSHIP CERTIFICATE DATED 7/07/2008 ISSUED BY THE 2ND RESPONDENT
- EXHIBIT P3** TRUE COPY OF THE PROCEEDINGS NO F.NO .19/3/2008 -SDO(KDT) DATED 10/02/2009 ISSUED BY THE 1ST RESPONDENT
- EXHIBIT P4** TRUE COPY OF THE NO OBJECTION CERTIFICATE NO F.NO.19/14/2006 -BDO (KDT) DATED 11/04/2011 ISSUED BY THE 2ND RESPONDENT
- EXHIBIT P4(A)** TRUE COPY OF THE ELECTRICITY BILL IN CONSUMER NO 07PD010561 DATED 07/10/2023
- EXHIBIT P5** TRUE COPY OF THE NOTICE NO F .NO 1/50/2023-KDTPS DATED 15/01/2024
- EXHIBIT P6** TRUE COPY OF THE COMMUNICATION F.NO 9/5/2019 -SDO (ASO) KDT DATED 27/02/2024 ISSUED BY THE 2ND RESPONDENT TO THE 3RD RESPONDENT

RESPONDENT EXHIBITS

- EXHIBIT-R4(A)** THE TRUE COPY OF THE MODIFYING THE ORDER DATED 30-05-2001, AS PER ROUGH PATTA NO.1398 DATED 30-04-2002.
- EXHIBIT-R4(B)** THE TRUE COPY OF THE OWNERSHIP CERTIFICATE F. NO. 19/2/2018 SDO PART

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1/10 DATED 04- 09-2018.

- EXHIBIT-R4(C) TRUE COPY OF THE NOTICE ISSUED BY THE EXECUTIVE MAGISTRATE TO THE PETITIONER ON 16-07-2020 VIDE F.NO.9/5/2019- ASO (KDT)**
- EXHIBIT-R4(D) TRUE COPY OF THE ORDER ISSUED BY THE EXECUTIVE MAGISTRATE ORDER NO. F. NO.9/5/2016-SDO (KDT) DATED 23-09-2020**
- EXHIBIT-R4(E) TRUE COPY OF THE APPLICATION DATED 11.11.2020 FILED BY THE SHAREEFABI BEFORE THE KADAMATH DHWEEP SUB DIVISION OFFICER.**
- EXHIBIT-R4(F) TRUE COPY OF THE APPLICATION DATED 22.03.2021 FILED BY THE SHAREEFABI BEFORE THE 2ND RESPONDENT.**
- EXHIBIT-R4(G) TRU COPY OF THE NOTICE ISSUED BY THE SETTLEMENT OFFICR DATED 19.10.2020**