

AI Legal Document Analyzer Report

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Document Details

File Name: Govt_Of_Kerala_vs_Joseph_on_9_August_2023_1.pdf

Detected Type: Lease Agreement

Risk Level: Medium

Summary

Of Kerala vs Joseph on 9 August, 2023

Indian Kanoon - <http://indiankanoon.org/doc/59843273/> 6

can be observed :

21.1 Possession must be open, clear, continuous and hostile to the claim or possession of the other party; all three classic requirements must coexist- nec vi, i.e., adequate in continuity; nec clam, i.e., adequate in publicity; and nec 7 [1907] A.C. 73 precario, i.e., adverse to a competitor, in denial of title and knowledge;

(a) In Radhamoni Debi v. Collector of Khulna⁸, the Privy Council held that-

?The possession required must be adequate in continuity, in publicity, and in extent to show that it is possession adverse to the competitor.?

(b) Further, the Council Maharaja Sri Chandra Nandi v.

Baijnath Jugal Kishore⁹ observed-

?It is sufficient that the possession should be overt and without any attempt at concealment, so that the person against whom time is running ought, if he exercises due vigilance, to be aware of what is happening.?

(c) A Bench of three judges of this Court in Parsinni v.

Sukhi¹⁰ held that ?Party claiming adverse possession must prove that his possession must be ?nec vi,

nec clam, nec precario? i.e. In terms of Articles 142 and 144 of the Limitation

Act, 1908, the burden of proof was on the plaintiff to show within 12 years from the date of institution of the suit that he had title and possession of the land, whereas in terms of Articles 64 and 65 of the Limitation Act, 1963, the legal position has underwent complete change insofar as the

onus is concerned : once a party proves its title, the onus of proof would be on the other party to prove claims of title by adverse possession?..? The Court reiterated this principle in the case of Janata Dal Party v. Indian National Congress³³ (two-Judge Bench):Govt. A reading of the provision barring the jurisdiction of civil suits in respect of proceedings initiated under the act, reveals the following ingredients for such a bar to apply :

- i) no suit in any Civil Court;
- ii) in respect of any order under this Act;
- iii) the only ground upon which such a suit would be entertained is if the notice issued is in regards of property that does not belong to the Government;
- iv) the entertainment of a suit under the exception described in point No. Of Kerala vs Joseph on 9 August, 2023

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21.6 Mere passing of an ejectment order does not cause brake in possession neither causes his dispossession;

In Balkrishna v. Satyaprakash²⁴ (two-Judge Bench) this Court held :

??Mere passing of an order of ejectment against a person claiming to be in adverse possession neither causes his dispossession nor discontinuation of his possession which alone breaks the continuity of possession.? 21.7 When the land subject of proceedings wherein adverse possession has been claimed, belongs to the Government, the Court is duty-bound to act with greater seriousness, effectiveness, care and circumspection as it may lead to Destruction of a right/title of the State to immovable property.

? Key Clauses and Excerpts

Confidentiality: ? Missing

Termination: ? Found

Excerpt: (two-Judge Bench)16, this court observed- ?1? It is not merely unauthorised possession on termination of his licence that enables the licensee to claim title by adverse possession but there must be some overt act on the part of the licensee to show that he is claiming adverse title...

Payment: ? Found

Excerpt: By order dated 24th February, 1982 the appropriate authority (Tehsildar) had passed an order directing the claimant to not only vacate the land but also to pay compensation amounting to Rs...

Liability: ? Missing

Dispute Resolution: ? Found

Excerpt: 3 of 1991 were overturned and the land, subject matter of dispute, was stated to be Indu Marwah Date: 2023...

Governing Law: ? Found

Excerpt: Oka

1 2023 INSC 693

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

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Intellectual Property: ? Found

Excerpt: Clissold7 in the following terms: ?It cannot be disputed that a person in possession of land in the assumed character of the owner and exercising peaceably the ordinary rights of ownership has a perfectly good title against all the world but the rightful owner...

Non-Compete: ? Missing

Indemnity: ? Missing

Force Majeure: ? Missing

Note: This report is auto-generated. Always verify key legal terms manually.