

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE P.D.RAJAN**

THURSDAY, THE 19TH DAY OF DECEMBER 2013/28TH AGRAHAYANA, 1935

WP(C).No. 19696 of 2013 (J)

PETITIONER(S):

- 1. M.M. MATHEW, AGED 74 YEARS,
S/O.MATHAI, MANAPURATH HOUSE,
THIRUVAMPADI AMSOM & DESOM, KOZHIKODE DISTRICT,
NOW RESIDING NEAR PONNARIMANGALAM HOSPITAL,
C/O.CHETTIPADATH KUNJAPPAN, MULAVUKAD P.O.,
ERNAKULAM DISTRICT, PIN- 682 504,
REPRESENTED BY THE POWER OF ATTORNEY HOLDER
JIJI MATHEW, 3RD PETITIONER HEREIN.**
- 2. THRESSIAKUTTY MATHEW, AGED 65 YEARS,
W/O.M.M. MATHEW, S/O.MATHAI, MANAPURATH HOUSE,
THIRUVAMPADI AMSOM & DESOM, KOZHIKODE DISTRICT,
NOW RESIDING NEAR PONNARIMANGALAM HOSPITAL,
C/O.CHETTIPADATH KUNJAPPAN, MULAVUKAD P.O.,
ERNAKULAM DISTRICT, PIN- 682 504,
REPRESENTED BY THE POWER OF ATTORNEY HOLDER
JIJI MATHEW, 3RD PETITIONER HEREIN.**
- 3. JIJI MATHEW, AGED 37 YEARS, D/O.M.M. MATHEW, S/O.MATHAI,
MANAPURATH HOUSE, THIRUVAMPADI AMSOM & DESOM,
KOZHIKODE DISTRICT, NOW RESIDING
NEAR PONNARIMANGALAM HOSPITAL,
C/O.CHETTIPADATH KUNJAPPAN, MULAVUKAD P.O.,
ERNAKULAM DISTRICT, PIN- 682 504,
FOR HERSELF AND AS POWER OF ATTORNEY HOLDER
REPRESENTING FOR 1ST AND 2ND PETITIONERS HEREIN.**

BY ADV. SRI.LIJOY PARAKAL VARGHESE.

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
HOME DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM- 695 001.**
- 2. SUB INSPECTOR OF POLICE,
THIRUVAMPADY P.S, KOZHIKODE DISTRICT, PIN- 673 603.**

3. SUPERINTENDENT OF POLICE (RURAL),
PUTHUPPANAM, KOILANDY VIA, VADAKARA P.O.,
KOZHIKODE DISTRICT, PIN- 673 101.

4. SUB INSPECTOR OF POLICE,
MULAVUKAD P.S, ERNAKULAM DISTRICT, PIN- 682 504.

5. COMMISSIONER OF POLICE,
ERNAKULAM DISTRICT, PIN- 682 011.

* ADDL. R6 TO R30 IMPLEADED

6. K.V. VARGHESE, AGED ABOUT 70 YEARS,
S/O.VARKEY, KUMBAPPILLY HOUSE,
PULLOORAMPARA. P.O., NEAR PALLIPADY PALAM,
KODENCHERY POLICE STATION LIMIT,
KOZHIKODE DISTRICT, PIN -673 604.

7. BABY. K.D., AGED ABOUT 48 YEARS,
S/O.DEVASIA, KATTACKAL HOUSE,
PULLOORAMPARA. P.O., KODAKKATTUPARA BHAGAM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE DISTRICT, PIN -673 604.

8. ARUN BABY, AGED ABOUT 20 YEARS,
S/O.BABY. K.D., KATTACKAL HOUSE,
PULLOORAMPARA. P.O., KODAKKATTUPARA BHAGAM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE DISTRICT, PIN -673 604.

9. ANJU BABY, AGED ABOUT 19 YEARS,
S/O.BABY.K.D., KATTACKAL HOUSE,
PULLOORAMPARA. P.O., KODAKKATTUPARA BHAGAM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE DISTRICT, PIN -673 604.

10. AKHIL BABY, AGED ABOUT 16 YEARS,
S/O.BABY.K.D., KATTACKAL HOUSE,
PULLOORAMPARA. P.O., KODAKKATTUPARA BHAGAM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE DISTRICT, PIN -673 604.

11. JIBY BABY, W/O.BABY.K.D., AGED ABOUT 39 YEARS,
S/O.BABY.K.D., KATTACKAL HOUSE,
PULLOORAMPARA. P.O., KODAKKATTUPARA BHAGAM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE DISTRICT, PIN -673 604.

12. JOHNY. K.E., AGED ABOUT 48 YEARS,
S/O.EAPEN, KULAVATTATHIL (H),
NELLANICAL BHAGAM, THIRUVAMPADY SMSOM DESOM,
THIRUVAMPADY. P.O., THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE DISTRICT, PIN -673 603.

13. MATHEW FRANCIS, AGED ABOUT 68 YEARS,
S/O.LATE FRANCIS, KALLUKULANGARA (H),
NELLANICAL BHAGAM, THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.
14. JOSE. P.P.,AGED ABOUT 65 YEARS,
S/O.LATE PAILY PULAKUDIYIL, PULAKKUDIYIL(H),
NELLANICAL BHAGAM, THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.
15. POLY JACOB, AGED ABOUT 55 YEARS,
S/O.LATE JACOB, THURUTHIMATTATHIL (H),
NELLANICAL BHAGAM, THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.
16. SHAJI PHILIP, AGED ABOUT 45 YEARS,
S/O.PHILIPPOSE, VETTIKATTIL (H),
NELLANICAL BHAGAM, THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY P.O, THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE DISTRICT -673 603.
17. SONU JOSEPH, AGED ABOUT 25 YEARS,
S/O.LATE JOSEPH, PULAKKUDIYIL (H),
NELLANICAL BHAGAM, THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY P.O, THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE DISTRICT -673603.
18. JOSEPH. K.E., AGED ABOUT 68 YEARS,
S/O.EAPEN KULAVATTATHIL (H),
NELLANICAL BHAGAM, THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.
19. K.C. MATHEW,
AGED ABOUT 70 YEARS, S/O.LATE CHACKO,
KUTTIKATTUMANNIL (H), NELLANICAL BHAGAM,
THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.
20. SAJI MATHEW, AGED ABOUT 38 YEARS,
S/O.K.C. MATHEW, KUTTIKATTUMANNIL (H),
NELLANICAL BHAGAM, THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.

21. JUBY MATHEW, AGED ABOUT 38 YEARS,
S/O.MATHEW KALLUKULANGARA,
KALLUKULANGARA (H), NELLANICAL BHAGAM,
THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.
22. JINO MATHEW, S/O.MATHEW KALLUKULANGARA,
KALLUKULANGARA (H), NELLANICAL BHAGAM,
THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY P.O., THIRUVAMPADI POLICE STATION LIMIT,
KOZHIKODE DISTRICT -673 603.
23. JOSEPH FRANCIS,
S/O.LATE FRANCIS AZHAKATH, AZHAKATH (H),
KALLUKULANGARA, KALLUKULANGARA (H),
NELLANICAL BHAGAM, THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.
24. SOBIN TOMY, AGED ABOUT 32 YEARS,
S/O.TOMY KULAVATTATHIL, KULAVATTATHIL (H),
NELLANICAL BHAGAM, THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.
25. SAJIN TOMY, AGED ABOUT 28 YEARS,
S/O.TOMY KULAVATTATHIL, KULAVATTATHIL (H),
NELLANICAL BHAGAM, THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.
26. ALBIN JOSEPH, AGED ABOUT 28 YEARS,
S/O.TOMY KULAVATTATHIL, KULAVATTATHIL(H),
NELLANICAL BHAGAM, THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.
27. JOBIN JOSEPH, AGED ABOUT 28 YEARS,
S/O.JOSEPH. K.E., KULAVATTATHIL, KULAVATTATHIL (H),
NELLANICAL BHAGAM, THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.
28. SIJO JOSEPH, AGED ABOUT 34 YEARS,
ELDEST S/O.JOSEPH. K.E., KULAVATTATHIL,
KULAVATTATHIL (H), NELLANICAL BHAGAM,
THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.

**29. UNNEENKUTTY, AGED ABOUT 70 YEARS,
S/O.MOIDEEN, KOTTEAKKADAN (H),
KARIYATHUMKUZHY BHAGAM,
THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.**

**30. ASHARAF, AGED ABOUT 30 YEARS,
S/O.UNNEENKUTTY, KOTTEAKKADAN (H),
KARIYATHUMKUZHY BHAGAM,
THIRUVAMPADY AMSOM DESOM,
THIRUVAMPADY POLICE STATION LIMIT,
KOZHIKODE -673 603.**

*** ADDL. R6 TO R30 ARE IMPEADED AS PER ORDER DATED 02.09.2013
IN IA. NO.11490/2013.**

**R1 TO R5 BY GOVT. PLEADER SMT.M.T. SHEEBA.
R12 TO R21, R23, R29, R30 BY ADVS. SRI.V.T.MADHAVANUNNI,
SRI.V.A.SATHEESH.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19-12-2013, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1. COPY OF THE ORDER IN WP(C).NO. 9290/11 BEFORE THE HONOURABLE HIGH COURT OF KERALA.
- EXHIBIT P2. COPY OF THE COMPLAINT DATED 23/07/2013 AND RECEIPT DATED 24.07.2013 FILED BEFORE THE S.I OF POLICE, MULAVUKAD P.S.
- EXHIBIT P3. COPY OF THE COMPLAINT DATED 01.05.2013 AND RECEIPT DATED 02/05/2013 FILED BEFORE THE COMMISSIONER OF POLICE, ERNAKULAM.
- EXHIBIT P4. COPY OF THE COMPLAINT DATED 22.07.2013 AND RECEIPT DATED 23/07/2013 FILED BEFORE THE COMMISSIONER OF POLICE, ERNAKULAM.
- EXHIBIT P5. COPY OF THE COMPLAINT DATED 12.11.2012 AND ACKNOWLEDGMENT DATED 19/11/2012 FILED BEFORE THE S.I OF POLICE, THIRUVAMPADY P.S.
- EXHIBIT P6. COPY OF THE COMPLAINT AND RECEIPT DATED 10.08.2012 FILED BEFORE THE SUPERINTENDENT OF POLICE (RURAL), VADAKARA, KOZHIKODE DISTRICT.
- EXHIBIT P7. COPY OF THE COMPLAINT AND RECEIPT DATED 10.08.2012 FILED BEFORE THE CITY POLICE COMMISSIONER, KOZHIKODE DISTRICT.
- EXHIBIT P8. COPY OF THE IA NO.5482/2012 IN IA NO.3810/2012 IN OS NO.42/2011 PENDING BEFORE THE HONOURABLE MUNSIFF-II P COURT, KOZHIKODE.
- EXHIBIT P9. COPY OF THE APPLICATION SUBMITTED BY THE 3RD PETITIONER ON 16/03/2012 TO THE SUPERINTENDENT OF GENERAL HOSPITAL, ERNAKULAM ALONG WITH TRUE COPY OF THE I.A. NO.5717/2012 IN WP(C).NO. 3592/2012.
- EXHIBIT P10. COPY OF THE ORDER IN WP(C).NO. 16478/2011 OF THE HON'BLE HIGH COURT OF KERALA DATED 20/06/2011 ALONG WITH THE C.M.P. NO.3002/2011 FILED IN C.C. NO.113/2009 OF THE JUDICIAL FIRST CLASS MAGISTRATE-II, THAMARASSERY.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

ANTONY DOMINIC & P.D.RAJAN, JJ.

W.P(C).No.19696 of 2013

Dated this the 19th day of December, 2013

JUDGMENT

Antony Dominic, J.

1. Petitioners have filed this writ petition alleging that on account of the threat at the hands of the party respondents, they had abandoned their agricultural land, house and other properties in Kozhikode district. According to them, they are now residing in the suburbs of Ernakulam district. It is in this background, they have filed this writ petition seeking orders of police protection to go back to Kozhikode district to continue their agricultural activities there and to sell their usufructs in the market. It is also their case that on an earlier occasion, they have filed W.P(C).9290/11, which was disposed of by this Court by judgment dated 4.4.2011, directing that if there is any threat against the petitioners, they shall be free to complaint to the second respondent herein who was directed to take appropriate action in the matter. It is stated that irrespective of the directions contained in that judgment, when

they made complaint to the second respondent, he did not afford any police protection to them and that as a result thereof, they had to flee from Kozhikode district as stated above.

2. In the pleadings, although it is stated that on previous occasions, the petitioners were attacked as many as 27 times and that criminal cases were not registered by the police authorities, the statement filed by the second respondent would show that on the complaints made by the petitioners, five criminal cases were registered including against another daughter of petitioners 1 and 2, her husband and children. It is also stated that on investigation, it was found that the three cases were false and that two cases were chargesheeted and are pending trial. It is also disclosed that a criminal case filed against the petitioners is also pending before the jurisdictional Magistrate.

3. In so far as this case is concerned, the grievance raised by the petitioners is that on account of the threat they face at the hands of the party respondents, they had to abandon their agricultural farm and leave their home station. Although there is dearth of materials to substantiate the threats alleged in the writ petition, still, if as a matter of fact, it there is any substance in what is alleged by the petitioners, they deserve to be protected.

In the aforesaid circumstances and also taking note of the allegation raised against the second respondent that he has turned hostile to the petitioners, we direct that in the event if the petitioners have any apprehension of danger to their person or property, it will be open for them to complain to the third respondent, Superintendent of Police (Rural), Kozhikode. It is also directed that if the petitioners make such a complaint, the third respondent will conduct appropriate enquiry into the allegations and if he is satisfied that the complaint is genuine, appropriate action will be taken to

redress the grievances therein. Leaving it open to the petitioners to do so, this writ petition is closed.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
P.D.RAJAN, Judge.

k kb.