

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR.JUSTICE P.D.RAJAN

TUESDAY, THE 30TH DAY OF DECEMBER 2014/9TH POUSHA, 1936

WP(C).No.35244 of 2014 (E)

PETITIONER:

**MEHARKHAN.T,S/O.THANGALKUNJU,PROPRIETOR,
CHENALLOOR FASHION MARBLES AND
CHENALLOOR FASHION HOMES,
CHANGANKULANGARA,OACHIRA,KOLLAM,RESIDING AT
CHENALLOOR VEEDU,MEMANA,OACHIRA,KOLLAM DISTRICT.**

BY ADV. SRI.B.MOHANLAL

RESPONDENTS:

- 1. THE STATE POLICE CHIEF,POLICE HEADQUARTERS,
VAZHUTHACAUD,THIRUVANANTHAPURAM,PIN-695 001.**
- 2. THE DISTRICT POLICE CHIEF (COMMISSIONER OF POLICE,
KOLLAM CITY),POLICE DISTRICT HEADQUARTERS,
KOLLAM,PIN-691 001.**
- 3. THE ASSISTANT COMMISSIONER OF POLICE,KARUNAGAPPALLY,
KARUNAGAPPALLY P.O.,KOLLAM,PIN-690 518.**
- 4. THE SUB INSPECTOR OF POLICE,
OACHIRA POLICE STATION,
OACHIRA P.O.,KOLLAM,PIN-690 526.**
- 5. THE ASSISTNT LABOUR OFFICER,KARUNAGAPPALLY,
KARUNAGAPPALLY P.O.,KOLLAM,PIN-690 518.**
- 6. THE HEAD LOAD WORKERS WELFARE FUND BOARD,
KOLLAM DISTRICT COMMITTEE, REPRESENTED BY ITS
CHAIRMAN,CHAMAKKADA,KOLLAM,PIN-691 001.**
- 7. SRI.BIJU,DWARAKA,MEMANA,OACHIRA P.O,KOLLAM,PIN-690 526.**
- 8. SRI.BABU,S/O.ALIYARU KUNJU,SECRETARY,
LOADING - UNLOADING AND GENERAL WORKERS UNION,
C.I.T.U,MEMANA,OACHIRA P.O.,KOLLAM,PIN-690 526.**

R1 TO R5 BY GOVT. PLEADER SMT.LAWSY A

R6 BY SRI.C.S.AJITH PRAKASH, SC, KHWWB

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30-12-2014, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No.35244 of 2014 (E)

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1:THE TRUE COPY OF THE CERTIFICATE OF REGISTRATION TIN
NO.32020952962 ISSUED BY THE COMMERCIAL TAX OFFICER,
KARUNAGAPPALLY TO THE PETITIONER.**

**EXT.P2:THE TRUE COPY OF THE LICENSE ISSUED BY THE SECRETARY,
OACHIARA GRAMA PANCHAYATH TO THE PETITIONER.**

**EXT.P3:THE TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC
NO.4410/2014 DTD.21.02.2014.**

**EXT.P4:THE TRUE COPY OF THE AGREEMENT DTD.5.12.2014 ENTERED INTO
BETWEEN THE PETITIONER AND SRI.YUSAF KUNJU.**

**EXT.P5:THE TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER
BEFORE THE 4TH RESPONDENT AND ITS RECEIPT DTD.8.12.2014.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

**P.R. RAMACHANDRA MENON
&
P.D. RAJAN, JJ.**

.....
W.P.(C)No.35244 OF 2014
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Dated this the 30th December, 2014

J U D G M E N T

P.R. Ramachandra Menon, J:

The petitioner has approached this Court with the following prayers:

- i) To issue a writ of mandamus or other appropriate writ order or direction commanding the Respondents 1 to 4 to afford adequate and effective Police Protection for life and property of the Petitioner and his workers for loading, unloading Works in the Godown of Chennalloor Fashion Marbles and Chennalloor Fashion Homes at Oachira Village covered in Ext.P1, P2, and P4 without any obstruction or hindrance from Workers of the Respondents 7 and 8 and their henchmen or anybody in the light of the Full Bench decision of this Hon'ble Court in 1998(2) KLT Page-732 Raghavan Vs. Superintendent of Police and 2011(3) KHC Page-96 in Nujumudeen Vs. Police Commissioner, Kollam and others.*
- ii) To issue a writ of mandamus or other appropriate writ order of direction commanding the Respondents 1 to 4 to afford*

adequate and effective Police Protection for life and property of the Petitioner and his workers for loading, unloading Works in the Godown at Oachira Village covered in Ext.P1 and P4 without any obstruction or hindrance from workers of the Respondents 7 and 8 and their henchmen or anybody and restrain the workers of the respondents 7 and 8 and their henchmen or anybody from causing any obstruction or hindrance to the ingress and egress of the works of the Shop Room, show Room and Godown in the light of the Full Bench decision of this Hon'ble Court in 1998 (2) KLT Page-732 Raghavan Vs. Superintendent of Police and 2011(3) KHC Page-96 in Nujumudeen Vs. Police Commissioner, Kollam and others.

iii) To declare that the petitioner and his workers covered in Ext.P1, P2 and P4 are entitled to get Police Protection for life and property for loading unloading in the Godown at Oachira Village covered in Ext.P1, P2 and P4 without any obstruction or hindrance from Workers of the Respondents 7 and 8 and their henchmen or anybody in the light of the Full Bench decision of this Hon'ble Court in 1998 (2) KLT Page-732 Raghavan Vs. Superintendent of Police and 2011(3) KHC Page-96 in Nujumudeen Vs. Police

Commissioner, Kollam and others.

iv) Issue such other reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. The learned Counsel for the petitioner submits that the petitioner is engaged in the sale of Marbles, under the name and style as 'Chenalloor Marbles', Oachira, Kollam. The unit is being operated by engaging six skilled and trained workers, who are registered under the relevant provisions of the Kerala Head Load Workers Act and Rules. By virtue of nature of registration obtained under Rule 26 A of the relevant Rules and since the area is not a scheme covered area, the petitioner is entitled to carry out the operation, engaging the workers of the petitioner. This, however was sought to be intercepted by the respondents 7 and 8 on an earlier instance, when the petitioner was compelled to approach this Court by filing W.P(C)No.4410 of 2014. After hearing both the sides and also after recording the submission that the area is not a scheme covered area, the matter was disposed of, granting necessary relief, directing the police to render assistance to the petitioner in the event of respondents 7 and 8 or anybody under them creating any obstruction to the

proper functioning of the business of the petitioner.

3. While so, the petitioner recently set up a new godown, almost just opposite to the existing unit and this has been taken as an opportunity by the respondents 7 and 8 to take law into their hands and to cause forceful obstruction stating that Ext.P3 judgment does not cover the 'godown'. Though the petitioner has approached the police by filing a complaint, no positive action has been taken. Hence this writ petition.

4. Heard the learned Counsel for the petitioner, the learned Government Pleader appearing for the respondents 1 to 5, the learned Standing Counsel for the 6th respondent and also the learned Counsel for the respondents 7 and 8.

5. The learned Standing Counsel for the 6th respondent asserts that the godown, which has been recently set up by the petitioner is not in a scheme covered area. The factual position is asserted by the learned Government Pleader as well. The learned Counsel appearing for the respondents 7 and 8 submits that the averments and allegations raised in the writ petition are far from the track of truth and that the respondents 7 and 8 have not caused any forceful obstruction to the operations in the premises

of the petitioner, nor do they have any intention to intercept the same . The said submission is recorded.

6. This Court finds that Ext.P3 judgment governs the issue under similar circumstances. We do not find any reason to deviate; more so, when the area is not a scheme covered area and further that the petitioner is having registered workers having obtained proper identity cards under Rule 26 A of the Kerala Head Load Workers Rules. If there is any threat to the law and order situation by the respondents 7 and 8 or anybody under them, so as to cause any obstruction to the operations in the premises of the petitioner, as mentioned above, necessary and effective steps shall be taken to afford protection and to abate the threat to the law and order situation.

The writ petition is disposed of.

**P.R.RAMACHANDRA MENON
JUDGE**

**P.D. RAJAN,
JUDGE**