

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

OP(C).No. 2973 of 2015 (O)

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OS 382/2014 OF MUNSIFF COURT, THIRUVALLA.**

PETITIONER(S):

- 1. DR.MANESH THOMAS MATHAI, AGED 24,
S/O. T.T.MATHAI, THATTAKUNNEL HOUSE,
MUTHOOR MURI, THIRUVALLA TALUK.**
- 2. KOSHY THOMAS, AGED 76, EX NRE,
S/O. LATE T.K.THOMAS, THATTAKUNNEL HOUSE,
MUTHOOR MURI, THIRUVALLA VILLAGE,
THIRUVALLA TALUK.**

**BY ADVS.SRI.P.HARIDAS
SRI.P.C.SHIJIN**

RESPONDENT(S):

- 1. T.T.MATHAI, AGED 64, COMPANY EMPLOYEE,
THATTAKUNNEL HOUSE, KAVUMBHAGOM.P.O.,
MANNAMKARACHIRA MURI, KAVUMBHAGOM VILLAGE,
THIRUVALLA TALUK, NOW RESIDING AT WORKING AT
A1BOOM MARINE, P.O.BOX NO. 42188 FREE TRADE ZONE,
SHUWAIKH, KUWAIT-70652.**
- 2. THANKAPPAN, AGED 72, S/O. THEVAN,
PLAPARAMBIL HOUSE, NEAR T.M.M. HOSPITAL,
MUTHOOR MURI, KUTTAPUZHA VILLAGE,
THIRUVALLA TALUK.**
- 3. SURESH KUMAR, AGED 30, AGRICULTURAL WORKER,
S/O. THEVEN KOCHUKUNJU, PLAPARAMBIL HOUSE,
NEAR T.M.M.HOSPITAL, MUTHOOR MURI,
KUTTAPPUZHA VILLAGE, THIRUVALLA TALUK.**
- 4. PAPPAN, AGED 55, HEADLOAD WORKER, S/O. PANKAN,
CHARIVUKALAYIL HOUSE, MUTHOOR MURI,
KUTTAPPUZHA VILLAGE, THIRUVALLA TALUK.**

5. ASOKAN.E.M., AGED 43, S/O. MADHAVAN,
ELANJIMOOTIL PARAMBIL HOUSE,
KATTOOKARA MURI, KUTTAPPUZHA VILLAGE,
THIRUVALLA TALUK.
6. MANOJ.P.G., AGED 38, S/O. GOPALAN,
PLAMPARAMBIL HOUSE, KATTOOKARA MURI,
KUTTAPPUZHA VILLAGE, THIRUVALLA TALUK.
7. STATION HOUSE OFFICER,
THIRUVALLA POLICE STATION, THIRUVALLA.
8. DEPUTY SUPERINTENDENT OF POLICE,
THIRUVALLA.

R3 BY ADVS. SRI.V.MANOJ KUMAR
SRI.IYPE JOSEPH
R7 & R8 BY GOVERNMENT PLEADER

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 15-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1. TRUE COPY OF THE BUILDING PERMIT DATED 18-6-2014.
- EXT.P2. TRUE COPY OF THE PLAINT IN OS NO. 382/2014 DATED 24-6-2014.
- EXT.P3. THE TRUE COPY OF THE COMMISSION REPORT AND ROUGH SKETCH DATED 01-7-2014.
- EXT.P4. THE TRUE COPY OF WRITTEN STATEMENT DATED 9-3-2015.
- EXT.P5. TRUE COPY OF THE COMMISSION APPLICATION DATED 12-12-2014.
- EXT.P6. TRUE COPY OF THE OBJECTION FILED BY THE RESPONDENTS 2 TO 4 DATED 22-1-2015.
- EXT.P7. TRUE COPY OF THE ORDER DATED 13-3-2015.
- EXT.P8. TRUE COPY OF THE PETITION SEEKING POLICE AID DATED 14-10-2015.
- EXT.P9. TRUE COPY OF THE OBJECTION FILED BY THE RESPONDENTS 2 TO 4 TO THE APPLICATION FOR POLICE AID DATED 8-4-2015.
- EXT.P10. TRUE COPY OF THE ORDER DATED 15-9-2015.
- EXT.P11. TRUE COPY OF THE COMMUNICATION DATED 18-9-2015.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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K. ABRAHAM MATHEW, J.

O.P.(C).No. 2973 of 2015

Dated this the 15th day of December, 2015

J U D G M E N T

Petitioners are the plaintiffs in OS.382 of 2014 of Munsiff Court, Thiruvalla. By Ext.P7 order the learned Munsiff allowed them to reconstruct the collapsed compound wall of their property. There was a direction to do it under the supervision of the commissioner. There was obstruction by the respondents and others. So the lower court ordered police assistance. In spite of it the petitioners could not construct the compound wall. So the prayer in the OP is to direct the Munsiff to implement the order.

2. Heard the learned counsel on both sides.

3. Ext.P7 order has not been under challenge. It is an executable order. The court has a duty to see that it is executed. The court rightly appointed a commissioner to supervise the construction. It appears that the commissioner sent back the police who reached there to help him to enforce the order of the court for some reasons. This should not have happened. The lower court

is directed to recall the warrant and appoint another experienced commissioner.

In the result, this OP is allowed. The learned Munsiff is directed to recall the warrant issued to the commissioner and appoint a new experienced advocate as commissioner. The SHO concerned will be directed to give necessary assistance for the construction of the wall.

sd/-

K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge