

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WA.No. 776 of 2015 ()

(AGAINST THE JUDGMENT IN WP(C).NO. 8852/2014 DATED 11/03/2015)

APPELLANT/WRIT PETITIONER:

**A.DINESAN, AGED 51 YEARS,
S/O.RAMAN, ATTOOR HOUSE, VETOM VILLAGE,
TIRUR TALUK, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.P.CHANDRASEKHAR
SRI.S.PRASANTH
SRI.SOORAJ T.ELENJICKAL
SRI.P.A.MOHAMMED SHAH
SMT.UMA
SMT.P.M.MAZNA MANSOOR**

RESPONDENT(S)/RESPONDENTS:

- 1. VETOM GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY,
VETOM GRAMA PANCHAYAT OFFICE, P.O.VETOM,
(VIA) TIRUR, MALAPPURAM DISTRICT. PIN.674 439.**
- 2. THE REVENUE DIVISIONAL OFFICER,
(SUB DIVISIONAL MAGISTRATE), TIRUR,
MALAPPURAM DISTRICT. PIN.674 439.**
- 3. THE SUB INSPECTOR OF POLICE,
TIRUR, MALAPPURAM DISTRICT. PIN.674 435.**
- 4. VETOM BHAGAVATHY TEMPLE,
REPRESENTED BY ITS SECRETARY,
NEELAKANDAN NAMBEESAN @ UNNI, S/O.NARAYANAN,
VETTATHPALLY NAMBI, P.O.VETOM, TIRUR TALUK,
MALAPPURAM DISTRICT. PIN.674 435.**
- 5. SRI. P.K. MANAVIKRAMA RAJA (SAMOOTHIRI RAJA),
MANAGING TRUSTEE, VETTATHUKAVU DEVASWOM,
THIRVANNOR NADA P.O., KOZHIKODE - 673 029.**

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6. THE TAHSILDAR, TIRUR TALUK,
TIRUR, MALAPPURAM DISTRICT. PIN.673 543.
7. THE DISTRICT SUPERINTENDENT OF POLICE,
MALAPPURAM, MALAPPURAM DISTRICT. PIN.673 543.
8. THE DISTRICT COLLECTOR,
MALAPPURAM, MALAPPURAM DISTRICT. PIN.673 543

R1 BY ADV.SRI.C.M.MOHAMMED IQUABAL
R2 & R3, R6 TO R8 BY SPL.GOVERNMENT PLEADER SMT.GIRIJA GOPAL
R4 & R5 BY SRI.M.P.SREEKRISHNAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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**ASHOK BHUSHAN, CJ
& A.M.SHAFFIQUE, J.**

W.A.No.776 of 2015

Dated this the 1st day of April 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard learned counsel for the appellant.

2. This writ appeal has been filed against the judgment dated 11/03/2015 in W.P.C.No.8852/2014. The appellant had filed the writ petition praying for the following reliefs:

“i) Issue writ of mandamus or any appropriate writ order or direction commanding the respondents 1 to 3 to remove the encroachment and demolish construction of arch across the public road done by the 4th and 5th respondents and realize the cost from them.

ii) Issue a direction to the respondents 1 to 3 to permanently prohibit any construction or obstruction henceforth in the public road starts from Bhagavathikavu junction of the PWD road which goes towards west abutting the temple compound.”

3. The learned Single Judge, apart from noticing the submission and considering the materials on record, had also referred to the report of the Village Officer as mentioned in paragraph 17.

4. After having heard the parties, we are of the view that the issues which were sought to be raised in the writ petition ought to have been taken before the competent Civil Court since the issues require adjudication of facts and taking all evidence which could have been properly done in a competent civil court. While dismissing the writ appeal, we only observe that the observations made in the judgment shall not come in the way of the Civil Court when issues of facts are adjudicated in a competent suit by a competent Civil Court or competent authority.

With these observations, this writ appeal is dismissed.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

