

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WA.No. 1897 of 2015 () IN WP(C).11189/2015

AGAINST THE ORDER/JUDGMENT IN WP(C) 11189/2015 of HIGH COURT OF
KERALA DATED 30-07-2015

APPELLANT(S)/PETITIONER:

K.PREMARAJ
MAKKANHIRATTE HOUSE, ERAMALA P.O., KOZHIKODE
PIN-673501.

BY ADV. K.PREMARAJ (PARTY-IN-PERSON)

RESPONDENT(S)/RESPONDENTS:

1. THE MANAGING DIRECTOR, MIMS HOSPITAL
GOVINDAPURAM P.O., KOZHIKODE, PIN-673016.

2. THE SUPERINTENDENT OF POLICE
CRIME BRANCH, CHALLAPURAM P.O., KOZHIKODE-673002.

3. THE CORPORATION SECRETARY
KOZHIKODE CORPORATION, KOZHIKODE BEECH P.O.
PIN-673032.

R1 BY SRI.DEVAPRASANTH.P.J.

R2 BY SR.GOVERNMENT PLEADER SRI.T.P.SAJID

R3 BY SRI.K.D.BABU,SC,KOZHIKODE CORPORATION

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
01-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A.No. 1897 of 2015

Dated this the 1st September, 2015

JUDGMENT

Ashok Bhushan, CJ.

This Writ Appeal has been filed against the judgment of the learned Single Judge dated 30.7.2015 in W.P(C). No.11189 of 2015. The appellant has appeared in person. The Writ Petition was filed by the appellant praying for the following reliefs:

- "i. Hon'ble Court may be pleased to order Rs.25 lakhs compensation from R1 MIMS Hospital management.*
- ii. R2 Superintendent of crime branch may be directed to charge case against R1 MIMS hospital enquiry case and stop poison and attack against petitioner and relatives and enquire the activities of MIMS directors.*
- iii) R3 Kozhikode Corporation secretary may be directed to stop function MIMS this hospital may cause evil to society."*

2. The petitioner was an employee of the first respondent. An industrial dispute was raised and the petitioner had earlier approached this Court by filing W.P (C).No.25436 of 2008 claiming compensation of ₹10 Lakhs and certain other directions. The Division Bench observed in the judgment dated 17.12.2008 that if the petitioner wants compensation, it is for him to approach the Civil Court. The petitioner filed W.P(C).No.11189 of 2015 making allegations against the first respondent. The petitioner's case is that the petitioner had filed the earlier Writ Petition for Police protection and for a direction to the first respondent. The petitioner claims to have submitted a written complaint that he was poisoned on 22.12.2004. The petitioner has also referred to the dispute before the Labour Court. The petitioner has also referred to certain reports of blood test produced along with the Writ Petition, i.e., Exhibit P3 and a statement, Exhibit P2 given by one Shaji E.V before the Labour Court, Kozhikode. In the Writ Petition, counter affidavit was filed by

respondents 1 and 2. The Commissioner of Police, Kozhikode has stated in the counter affidavit that a complaint was submitted by the petitioner to the Police, which was enquired and the allegations were not found to be true. The learned Single Judge, after hearing the petitioner and referring to earlier Division Bench judgment, dismissed the Writ Petition observing that the prayer cannot be entertained after more than 10 years.

3. The appellant, who appeared in person, submits that Exhibit P3 blood report and Exhibit P2 statement produced before the Labour Court clearly prove that he was poisoned by the first respondent. He submits that the Police, in spite of complaint given, have not investigated the crime and this Court may direct investigation of the crime. He submits that compensation be granted by this Court when there is violation of fundamental rights.

4. Learned counsel for the first respondent refuted the submission and submitted that the learned Single Judge has rightly dismissed the Writ Petition. He has

referred to the counter affidavit filed by the second respondent and the averments therein.

5. Having heard the appellant, who appeared in person, and the learned counsel for the respondents, we are of the view that no error has been committed by the learned Single Judge in dismissing the Writ Petition. In so far as the claim of compensation is concerned, the Division Bench by its judgment dated 12.12.2008 has already observed that for claiming compensation, the remedy of the appellant is to approach the Civil Court, where all the issues can be raised and decided. In so far as the prayer for a direction to investigate the crime, we are of the same view as has been taken by the learned Single Judge that at this stage, no direction need be issued, especially when the complaints submitted by the petitioner were enquired and the Police authorities found no truth in the same.

In the said circumstances, it is for the appellant to pursue the criminal complaint further in accordance with

law, which could not have been done. At this stage, no direction could be given to the learned Single Judge. The Writ Appeal is dismissed.

**ASHOK BHUSHAN
CHIEF JUSTICE**

**A.M.SHAFIFIQUE
JUDGE**

vgs1/9/15