

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WP(C).No. 794 of 2015 (Y)

PETITIONER :

AJITHKUMAR AGED 54 YEARS
S/O. CHELLAPPAN PILLAI, DEVAKI MANDIRAM
KIZHUVILAM.P.O., PIN-695104, MAMOM
ATTINGLA, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.LIJU. M.P

RESPONDENTS :

1. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. THE DISTRICT COLLECTOR,
DISTRICT COLLECTORATE
THIRUVANANTHAPURAM DISTRICT-695 001.
3. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM-695 001.
4. THE CIRCLE INSPECTOR OF POLICE,
CHIRAYINKEEZH CIRCLE OFFICE, CHIRAYINKEEZH
THIRUVANANTHAPURAM DISTRICT-695 001.
5. S. SREEJITH,
THE POOL LEADER, CITU., S.K. NIVAS
KIZHUVILAM.P.O., MAMOM, ATTINGAL
THIRUVANANTHAPURAM DISTRICT-695 608.
6. MOHANAN,
THE POOL LEADER (B.M.S.)
OFFICE OF B.M.S. KIZHUVILAM P.O., MAMOM, ATTINGAL
THIRUVANANTHAPURAM DISTRICT-695 608.

7. SURESH BABU,
THE POOL LEADER (INTUC), OFFICE I.N.T.U.C.
KIZHUVILAM P.O., MAMOM, ATTINGAL
THIRUVANANTHAPURAM DISTRICT-695 608.

8. THE SUB INSPECTOR OF POLICE,
ATTINGAL POLICE STATION, ATTINGAL
THIRUVANANTHAPURAM DISTRICT-695 608.

R5 TO R7 BY ADV. SRI.V.P.PRASAD
R5 TO R7 BY ADV. SRI.K.R.RAJKUMAR
R1 TO R4 & R8 BY SR.GOVERNMENT PLEADER, SRI.C.R. SYAM KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 794 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1. TRUE COPY OF THE CIRCULAR NO. 7/2012 DATED 26-3-2012 ISSUED BY THE 3RD RESPONDENT.

EXT.P2. TRUE COPOY OF THE BUILDING PERMIT DATED 16-11-13 ISSUED BY THE ATTINGAL MUNICIPALITY.

EXT.P3. TRUE COPY OF THE POSSESSION CERTIFICATE DATED 19-10-2013 ISSUED TO THE PETITIONER.

RESPONDENTS' EXHIBITS :

EXT.R5(A) : TRUE COPY OF WOR CARD WITH TRANSLATION DATED 17.12.2014.

EXT.R5(B) : TRUE COPY OF WOR CARD WITH TRANSLATION DATED 27.12.2014.

EXT.R5(C) : TRUE COPY OF WOR CARD WITH TRANSLATION DATED 29.12.2014.

EXT.R5(D) : TRUE COPY OF WOR CARD WITH TRANSLATION DATED 23.01.2015.

EXT.R5(E) : TRUE COPY OF WOR CARD WITH TRANSLATION DATED 28.01.2015.

EXT.R5(F) : TRUE COPY OF WOR CARD WITH TRANSLATION DATED 30.01.2015.

/TRUE COPY/

PA TO JUDGE

ASHOK BHUSHAN, Ag.C.J. & A.M. SHAFFIQUE, J.

W.P.(C) No. 794 OF 2015

Dated this the 18th day of February, 2015

JUDGMENT

Ashok Bhushan, Ag.C.J.

Heard learned counsel for the petitioner, learned Government Pleader as well as learned counsel appearing for respondents 5 to 7.

2. By this writ petition the petitioner has prayed for a direction to the effect that claim of respondents 5 to 7 for 'Nokkukooli' from the petitioner is illegal and further to take action against respondents 5 to 7 from causing obstruction to the construction work at the work site of the petitioner and claiming 'Nokkukooli'.

3. Petitioner is a contractor by profession and is engaged in construction of multi storied buildings for commercial establishments like Banks, Co-operative Societies etc. Petitioner's case is that even for unloading of goods using tipper lorries, 'Nokkukooli' is demanded. He referred to Ext.P4 complaint dated 15.12.2014.

4. Learned counsel for 5th respondent submits that petitioner has been engaging members of respondents 5 to 7 Unions, for carrying out loading and unloading work, since manual loading and unloading work is required in the petitioner's construction site. The materials brought on record clearly indicates that respondents 5 to 7 have been engaged for carrying out manual loading and unloading work.

5. Learned counsel for the petitioner does not deny the fact that for carrying on manual loading and unloading, respondents 5 to 7 and other registered workers have been engaged as the area being scheme covered area. He confine his prayer only with regard to unloading materials brought in tipper lorries, as has been mentioned in Ext.P4. In view of the fact that the area is a scheme covered area for carrying on loading and unloading manually, respondents 5 and 7 and any other registered workers in the area are fully entitled to claim the work. However, when materials are unloaded by tipper lorries using mechanical devices, no work can be claimed by respondents 5 to 7.

6. In the above view of the matter, we are of the opinion that the writ petition can be disposed of directing 8th respondent to ensure that in the event unloading is done by tipper lorries, i.e. by using mechanical devices, no obstruction is created by respondents 5 to 7.

With the above observation, the Writ Petition is disposed of.

**Ashok Bhushan,
Acting Chief Justice.**

**A.M. Shaffique,
Judge.**