

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

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 889 of 2015 (I)

PETITIONER(S) :

SIVAKUMAR, AGED 43 YEARS,
S/O.K.K.KUMARA PILLAI, INDIRA BHAVAN, POOJAPPURA
THIRUVANANTHAPURAM, NOW RESIDING AT 'KUMARA BHAVAN'
TC 17/1254, PANGODE, SASTHAMANGALAM VILLAGE
THIRUMALA PO, THIRUVANANTHAPURAM

BY ADV. SRI.THIRUMALA P.K.MANI

RESPONDENT(S) :

1. SUB INSPECTOR OF POLICE,PEROORKADA POLICE STATION
PEROORKADA, THIRUVANANTHAPURAM 695 005

2. CIRCLE INSPECTOR OF POLICE,
PERROKADA POLICE STATION, PEROORKADA,
THIRUVANANTHAPURAM 695 005

3. CITY POLICE COMMISSIONER,
THIRUVANANTHAPURAM CITY, THIRUVANANTHAPURAM 695 001.

4. P.RADHAMA,AGED 62 YEARS,
D/O.LATE PARUKUTTY AMMA, THERUVILAPARAMBU VEEDU,
MANNAMoola, PERRORKADA, THIRUVANANTHAPURAM 695 005.

5. P.SANTHAKUMARI,AGED ABOUT 60 YEARS
W/O.THANKAPPAN NAIR, MNRA-25, SRUTHI
MANNAMoola PERROKADA PO, THIRUVANANTHAPURAM 695 005.

6. SHARMILA.S.R, AGED 62 YEARS,
D/O.K.RADHA, TC 10/1050(1), MANNAMoola,
PEROORKADA PO, THIRUVANANTHAPURAM 695 005.

7. E.SELVARAJ, AGED ABOUT 63 YEARS,
GLENVISTA, TC 10/1050(1), MANNAMoola,
PEROORKADA PO, THIRUVANANTHAPURAM 695 005.

8. RADHA SELVARAJ,AGED ABOUT 60 YEARS,
W/O.E.SELVARAJ, GLENVISTA, TC 10/1050(1)
MANNAMoola, PEROORKADA PO, THIRUVANANTHAPURAM 695 005

9.THE VILLAGE OFFICER,
PEROORKADA VILLAGE OFFICE,
THIRUVANANTHAPURAM 695 005.

10. TALUK SURVEYOR,
THIRUVANANTHAPURAM TALUK EAST FORT,
THIRUVANANTHAPURAM 695 001.

11. TAHSILDAR,
THIRUVANANTHAPURAM 695 001.

R BY GOVERNMENT PLEADER C.R.SYAMKUAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1 COPY OF THE LOCATION CERTIFICATE DATED 7/1/2015.
EXHIBIT P1(A) ENGLISH TRANSLATRION OF THE EXHIBIT P1.
EXHIBIT P2 COPY OF THE POSSESSION CERTIFICATE DATED 7/1/2015,
EXHIBIT P2(A) ENGLISH TRANSLATRION OF THE EXHIBIT P2,
EXHIBIT P3 COPY OF THE LOCATION PLAN DATED 7/1/2015,
EXHIBIT P3(A) ENGLISH TRANSLATRION OF THE EXHIBIT P3.
EXHIBIT P4 COPY OF THE ROUGH SKETCH SHOWING THE PATHWAY AND THE
PROPERTY OF THE PETITIONER.
EXHIBIT P5 COPOY OF THE INJUNCTION ORDER DATED 20/1/2014 ISSUED BY
MUNSIFF'S COURT ,THIRUVANANTHAPURAM.
EXHIBIT P6 COPY OF THE INJUNCTION APPLICATION FILED BY THE 4TH
RESPONDENT DATED 16/1/2014

RESPONDENT(S) ' EXHIBITS

NIL

/TRUE COPU/ PS TO JUDGE.

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

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W.P. (C) No. 889 of 2015 – I
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Dated this the 13th day of January, 201

JUDGMENT

Ashok Bhushan, Ag.CJ.

Heard the learned counsel for the petitioner and the learned
Government Pleader.

2. By this Writ Petition the petitioner has prayed for the
following reliefs:-

- “i) *Appropriate Writ or Order directing the respondents 1 and 2 not to prevent or obstruct the petitioner to have the access and transportation through the 3 meters width pathway starting from the Mannamoola - Vattiyoorkavu Main Road and leading towards north and turn towards east and reaches to the plot of the petitioner i.e. 1.22 Sq.meters (3 cents) of property in Re.Sy. No. 124/15, Block No. 23 owned by the petitioner by virtue of the Sale Deed No. 2367/2014 dated 30-08-2014 of Peroorkada Village.*
- ii) *To issue an appropriate order restraining the respondents 1*

and 2 not to harass the petitioner and

iii) Such other reliefs as this Hon'ble Court deems fit and proper in the nature and circumstances of the case."

3. Petitioner's case is that the dispute with regard to pathway is engaging attention of the Civil Court in Original Suit No. 107/2014 between defendants No. 7 and 8. He submits that learned trial Court has passed an interim injunction order on 20th January 2014. But the petitioner is not party to the suit nor he is in any way affected by the injunction order. He submits that the police is unduly interfering with regard to the petitioner's right to use pathway.

4. Learned Government Pleader submits that an injunction order has been granted by the trial court as prayed for. In the interim injunction application, it was prayed that the defendants or their agents or anybody acting through them from trespassing into the B schedule property be enjoined. He also submits that in the plaint itself it is mentioned that the petitioner has purchased certain properties situated on the northern side of B schedule portion from defendants. Learned Government Pleader further

submits that after obtaining instructions, that there was law and order situation regarding the user of pathway, the police party went on the spot and have warned all concerned.

5. The submission of the learned counsel for the petitioner that police has no right to interfere regarding user of pathway, does not commend us. In view of the interim injunction order passed by the trial court, the police authorities have every right to ensure that the injunction order is complied with. If the petitioner is aggrieved by the order of interim injunction or he claims pathway as submitted in this Writ Petition, it is open for him to seek such remedy in the civil court , if advised.

With this observation, this Writ Petition is closed.

Sd/- ASHOK BHUSHAN ,
Ag. CHIEF JUSTICE

Sd/-A.M.SHAFFIQUE,
JUDGE

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/truecopy/

P.S.to Judge