

**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**

**MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937**

**WP(C).No. 1756 of 2015 (T)**  
-----

**PETITIONERS:**  
-----

- 1. P.J.JACOB AGED 68 YEARS  
S/O.LATE JOSEPH, VELLUKUNNEL  
PUTHIYAPARAMBIL HOUSE KUTTIKAL P.O KOTTAYAM  
DISTRICT - 686 514**
  - 2. ROSAMMA, AGED 68 YEARS, D/O.LATE JOSEPH  
VELLUKUNNEL, PUTHIYAPARAMBIL HOUSE, KUTTIKAL P.O  
KOTTAYAM DISTRICT - 686 514  
REPRESENTED BY HER POWER HOLDER P.J.JACOB**
- BY ADVS.SRI.SHAJI P.CHALY  
SRI.R.SANJITH  
SMT.C.S.SINDHU KRISHNAH  
SRI.ANISH ANTONY**

**RESPONDENTS:**  
-----

- 1. STATE OF KERALA  
REPRESENTED BY THE SECRETARY, HOME DEPARTMENT  
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 2. THE DIRECTOR GENERAL OF POLICE  
LAW AND ORDER, POLICE HEADQUARTERS, TRIVANDRUM-695001**
- 3. DISTRICT POLICE CHIEF  
OFFICE OF DISTRICT POLICE CHIEF, KOTTAYAM 686 002**
- 4. DEPUTY SUPERINTENDANT OF POLICE  
OFFICE OF DEPUTY SUPERINTENDANT OF POLICE  
KANJIRAPALLY 686 507**

**5. SUB INSPECTOR OF POLICE  
MUNDAKAYAM POLICE STATION, MUNDAKAYAM - 686 513**

**6. M.K.NANAPPAN, S/O.MADHAVAN  
KARAPLAKKAL HOUSE, ILAMKADU P.O, KOTTAYAM DISTRICT**

**R6 BY ADV. SRI.B.JAYASURYA  
R1 TO R6 BY SENIOR GOVERNMENT PLEADER SRI. C.R. SYAMKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-03-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**APPENDIX**

**PETITIONER'S EXHIBITS**  
-----

- EXT.P1** - TRUE COPY OF THE LATEST TAX PAID RECEIPTS
- EXT.P1(A)** - TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P1
- EXT.P2** - TRUE COPY OF THE CERTIFICATE OF PATTa
- EXT.P2(A)** - TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P2
- EXT.P3** - TRUE COPY OF THE POSSESSION CERTIFICATE
- EXT.P3(A)** - TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P3
- EXT.P4** - TRUE COPY OF THE SKETCH SHOWING THE NATURE AND LIE OF THE PETITIONERS PROPERTY
- EXT.P5** - TRUE COPY OF THE COMPLAINT PREFERRED TO THE 5TH RESPONDENT
- EXT.P5(A)** - TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P5
- EXT.P6** - TRUE COPY OF THE NEWSPAPER REPORTS IN MALAYALA MANORAMA, KOTTAYAM EDITION DATED 13TH, 14TH AND 15TH JANUARY 2015
- EXT.P6(A)** - TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P6
- EXT.P7** - TRUE COPY OF THE COMPLAINT DATED 15-01-2015 PREFERRED BY THE PETITIONER

**RESPONDENT'S EXHIBITS**  
-----

- EXT.R6(A)** - COPY OF THE DETAILED REPORT DATED 13.1.2014 ISSUED BY THE VILLAGE OFFICER, KOOTTIKKAL VILLAGE WITH TRANSLATION
- EXT.R6(B)** - COPY OF THE PLAINT IN O.S. NO.6/2014 IF MUNSIF COURT, ERATTUPETTA WITH TRANSLATION
- EXT.R6(C)** - COPY OF THE WRITTEN STATEMENT FILED BY THE 1ST RESPONDENT IN THE ABOVE SUIT WITH TRANSLATION
- EXT.R6(D)** - COPY OF THE COMPLAINT DATED 27.1.2015 FILED BY THE 6TH RESPONDENT BEFORE THE 5TH RESPONDENT WITH TRANSLATION

- EXT.R6(E) - COPY OF THE SALE DEED NO.3445/95 OF SUB REGISTRAR'S OFFICE, POONJAR WITH TRANSLATION
- EXT.R6(F) - TRUE COPY OF THE DEED NO.1801/2014 OF SUB REGISTRAR OFFICE, POONJAR WITH TRANSLATION
- EXT.R6(G) - TRUE COPY OF THE NEWS ITEM APPEARED IN VERNACULAR DAILY DATED 25.1.2015 WITH TRANSLATION
- EXT.R6(H) - COPY OF THE DOCUMENT NO.1296/2005 OF SUB REGISTRAR OFFICE, POONJAR WITH TRANSLATION
- EXT.R6(I) - COPY OF THE DEATH CERTIFICATE OF NARAYANAN ISSUED BY THE LOCAL REGISTRAR OF BIRTHS AND DEATHS, THALANADU GRAMA PANCHAYATH.
- EXT.R6(J) - COPY OF THE NEWS ITEM APPEARED IN DAILY VERNACULAR DATED 24.01.2015 WITH TRANSLATION

**/TRUE COPY/**

**PA TO JUDGE**

**JJJ**

**ASHOK BHUSHAN, Ag. C.J.**

**&**

**A.M. SHAFFIQUE, J.**

-----  
W.P.(C) No. 1756 of 2015  
-----

Dated this the 23<sup>th</sup> day of March, 2015

**J U D G M E N T**

A.M.Shaffique, J.

The petitioners have approached this Court seeking for Police Protection, *inter alia*, contending that the private respondent namely, the 6<sup>th</sup> respondent along with his men is causing obstruction in the matter relating to enjoyment of property of the petitioners. The petitioners claim to be the owners in possession of 2.4281 hectares and 1.6186 hectares of land in Re.Sy. Nos.73/2 and 74/1 of Kuttikal village , Kanjirapally Taluk, having obtained the same as per patta issued by the Government. While so, it is contended that the 6<sup>th</sup> respondent, claiming to be the President of the Sree Narayan Dharma Paripalana Sangam (SNDP), in connivance with certain persons encroached into the

property of the petitioners on 11.01.2015 by breaking open the metal fencing, claiming that idols of Nagaraja, Nagayakshi and Ganapathi was recovered from the property of the 2<sup>nd</sup> petitioner. This matter was informed to the Police. The Police had seized the objects and according to the petitioners those were certain stolen idols from another place, which was identified by the Police. The petitioners have approached this Court, since the petitioners apprehend that the 6<sup>th</sup> respondent and his men may construct a podium from where the idols were recovered. They are trying to disrupt the religious feelings of the people in the locality and thereby create a law and order situation.

2. A counter affidavit has been filed by the 6<sup>th</sup> respondent, *inter alia*, stating that the petitioners do not have any right in respect of the property and the pattas issued in their favour have been falsely given. The matter

has been taken up before the Vigilance authority which is pending consideration. Further it is stated that a civil suit O.S. No.6/2014 has been filed before the Munsiff's Court, Erattupetta, restraining the Government as well as the petitioners herein from cutting open a road in the property in question. It is also contended that there was a temple in the property and the idols which were recovered from there were not stolen properties, as alleged.

3. The learned Government Pleader, on instructions, would submit that appropriate police assistance has already been made available and surveillance is being done by the Police to avoid any law and order situation.

4. Having regard to the rights of the parties, this is a case in which *prima facie* the petitioners claim right over the property on the basis of pattas issued by the Government,

which according to the private respondent is a document obtained by way of manipulation. However, it is clear that *prima facie* the petitioners are in possession of the property and if the private respondent and their men has any right or they want to challenge the right of the petitioner, the remedy is to approach the competent authority or the court, as the case may be. They cannot take law into their hands and create law and order situation by which the possession of the petitioners will be disturbed and ultimately it might create communal issues in the locality.

5. In the said circumstance, we are of the view that the writ petition can be disposed of reserving the rights of the parties to agitate their claims before the appropriate forum/court and directing the Police to maintain necessary law and order in the area.

Accordingly, the Writ Petition is disposed of as under:

Respondents 4 and 5 shall ensure that law and order is maintained and no activity shall be carried out in the property which is in the possession of the petitioners, at the instance of the 6<sup>th</sup> respondent or his men, which will be subject to any further orders that might be passed by the civil court or any statutory authority.

Sd/-  
ASHOK BHUSHAN,  
ACTING CHIEF JUSTICE.

Sd/-  
A.M. SHAFFIQUE,  
JUDGE.

jjj