

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

W.P.(C).No.2152 of 2015 (T)

PETITIONER(S):-

ROBINSON PEREIRA, AGED 50 YEARS, S/O VINCENT PEREIRA,
CHIRATHOPPU HOUSE, KAMUKARA MURI,
MENAMKULAM VILLAGE, THIRUVANANTHAPURAM.

BY ADVS.SRI.K.P.SUJESH KUMAR
SMT.KEERTHI K.NARAYANAN.

RESPONDENT(S):-

1. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM,
PIN:695 014.
2. THE COMMISSIONER OF POLICE,
THIRUVANANTHAPURAM CITY, THIRUVANANTHAPURAM,
PIN:695 033.
3. THE SUPERINTENDENT OF POLICE,
THIRUVANANTHAPURAM RURAL, THIRUVANANTHAPURAM,
PIN:695033.
4. THE DEPUTY SUPERINTENDENT OF POLICE,
ATTINGAL, THIRUVANANTHAPURAM, PIN:695 101.
5. THE CIRCLE INSPECTOR OF POLICE,
KAZHAKUTTOM, THIRUVANANTHAPURAM, PIN:695 582.
6. THE SUB INSPECTOR OF POLICE,
KAZHAKUTTOM, THIRUVANANTHAPURAM, PIN:695 582.
7. JOSEPH ROGER, S/O VINCENT PEREIRA, SOFIA COTTAGE,
NEAR PUTHENTHOPPU HOSPITAL, CHITTATTUMUKKU P.O.,
KADINAMKULAM VILLAGE, THIRUVANANTHAPURAM.
8. SMITHA, W/O JOSEPH ROGER,
SOFIA COTTAGE, NEAR PUTHENTHOPPU HOSPITAL,
CHITTATTUMUKKU P.O.,
KADINAMKULAM VILLAGE, THIRUVANANTHAPURAM.

R1 TO R6 BY SENIOR GOVERNMENT PLEADER SRI.BIJU MEENATTOOR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
24-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER(S)' EXHIBITS:-

EXHIBIT P1: TRUE COPY OF THE JUDGMENT IN OS NO.125/2013 ON THE FILE OF THE MUNSIFF'S COURT, THIRUVANANTHAPURAM, DATED 30.7.2013.

EXHIBIT P2: TRUE COPY OF THE DECREE IN OS NO.125/2013 ON THE FILE OF THE MUNSIFF'S COURT, THIRUVANANTHAPURAM, DATED 30.7.2013.

EXHIBIT P3: TRUE COPY OF E.A.NO.631/2014 IN E.P.NO.156/2014 ON THE FILE OF THE MUNSIFF'S COURT, THIRUVANANTHAPURAM, DATED 15.10.2014.

EXHIBIT P4: TRUE COPY OF THE ORDER PASSED BY THE MUNSIFF'S COURT, THIRUVANANTHAPURAM IN EA NO.631/2014 IN E.P.NO.156/2014, DATED 30.10.2014.

EXHIBIT P5: TRUE COPY OF THE LETTER ISSUED BY THE COUNSEL FOR THE PETITIONER ON BEHALF OF THE PETITIONER TO THE FIRST RESPONDENT DATED 25.11.2014.

RESPONDENT(S)' EXHIBITS:-

NIL.

VKU/-

[TRUE COPY]

K. Vinod Chandran, J

W.P.(C).No.2152 of 2015-T

Dated this the 24th day of June, 2015

JUDGMENT

The petitioner, the plaintiff in the suit which was decreed in his favour, seeks for implementation of Exhibit P4 order passed in an Execution Application filed before the Executing Court.

2. The petitioner is said to have obtained a decree by Exhibit P1, wherein the respondents 7 and 8 were restrained from entering into the property of the petitioner. The petitioner filed an Execution Application, in which Exhibit P4 order was passed, the operative portion of which is extracted hereunder:

“The Director General of Police, City Police Commissioner, TVM, Superintendent of Police, Thiruvananthapuram Rural, Deputy Superintendent of Police, Attingal, Circle Inspector of Police, Kazhakuttam and Sub Inspector of Police, Kazhakuttam is hereby directed to do whatever is necessary to ensure that the judgment debtors do not enter or remain in the plaint schedule properties and the building situated therein, and if entered, to remove them”.

The petitioner contends that, despite such orders, nothing has been done by the officers mentioned therein, who are all impleaded in the writ petition also.

3. For one, it is to be noticed that the petitioner has only produced Exhibit P5, which is addressed to the 1st respondent, the Director General of Police. He should have normally approached the Station House Officer within whose jurisdiction the subject property is situated, being the Sub Inspector of Police, Kazhakuttam. In any event, this Court is not inclined to invoke the discretionary remedy under Article 226 of the Constitution. The petitioner would have to take recourse to his remedies before the Executing Court.

The writ petition would stand dismissed, leaving open such remedies.

Sd/-
K.Vinod Chandran
Judge.

vkul/-

[true copy]