

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 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(C).No. 3794 of 2015 (Y)

PETITIONER(S):

**BENNY GEORGE,
PALLIAMBIL HOUSE, KARIMPA P.O.,
MANNARKKAD - 678 597, PALAKKAD.**

**BY ADVS.SRI.V.M.KURIAN
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS**

RESPONDENT(S):

- 1. THE CIRCLE INSPECTOR OF POLICE, MNNARKKAD POLICE STATION,
PALAKKAD, PIN - 678 582.**
- 2. THE SUB INSPECTOR OF POLICE,
KALLADICODE POLICE STATION, T.B.JUNCTION
KALLADICODE - 678 596, PALAKKAD.**
- 3. CITU CHERULLY UNIT,
KARIMBA POST, MANNARKAD, PALAKKAD - 678 597,
REP. BY ITS SECRETARY SRI.SULAIMAN.**
- 4. STU CHERULLY UNIT,
KARIMBA POST, MANNARKAD, PALAKKAD - 678 597,
REP. BY ITS SECRETARY SRI. BASHEER.K.**
- 5. THE CHAIRMAN, PALAKKAD DISTRICT COMMITTEE
KERALA HEADLOAD WORKERS WELFARE FUND BOARD
PALAKKAD -1.**

**R1-R2 BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN
R3 & 4 BY ADVS. SRI.P.K.VIJAYAMOHANAN
SRI.NISHIL.P.S.
R5 BY ADV. SRI.C.A.MAJEED, SC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- TRUE COPY OF THE TAX RECEIPTS DATED 11.11.2013 ISSUED BY THE VILLAGE OFFICE AT KARIMBA**
- P1(A)- ENGLISH TRANSLATION OF TAX RECEIPT DATED 11.11.2013 ISSUED BY THE VILLAGE OFFICE AT KARIMBA**
- P2- TRUE COPY OF THE LICENCE DATED 9.7.2014 ISSUED BY THE KARIMBA GRAMA PANCHAYATH**
- P2(A)- ENGLISH TRANSLATION OF LICENCE DATED 9.7.14 ISSUED BY THE KARIMBA GRAMA PANCHAYATH**
- P3- TRUE COPY OF HTE CERTIFICATE DTED 5.8.14 ISSUED BY THE COMMERCIAL TAX OFFICER, MANNARKKAD**
- P4- TRUE COPY OF THE COMPLAINT DATED 16.12.2014 SUBMITTED BY THE PETITIONER**
- P5- TRUE COPY OF THE RECEIPT DATED 22.12.2014 ISSUED BY THE 2ND RESPONDENT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

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

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W.P.C.No.3794 of 2015

Dated this the 23rd day of June 2015

J U D G M E N T

Shaffique, J

Petitioner has approached this Court seeking police protection alleging obstruction by respondents 3 and 4 in the matter relating to carrying on with the business activity of the petitioner. It is stated that respondents 3 and 4 are demanding loading and unloading work. The area is not a scheme covered area and therefore respondents 3 and 4 have no right to demand such loading and unloading work. Petitioner has his own permanent employees to carry on the loading and unloading work. On account of such obstruction, petitioner approached the police by filing necessary complaint and since no action has been taken in the matter, this writ petition is filed.

2. Learned Standing counsel appearing for the 5th respondent submits that the area is not a scheme

implemented area.

3. Counter affidavit has been filed by respondents 3 and 4 indicating that even if it is not a scheme covered area, petitioners will have to get his permanent workers registered in terms with the Kerala Headload Workers' Rules. Since the permanent workers of the petitioner have not been registered, the loading and unloading work could be carried out only by the members of respondents 3 and 4 unions.

4. Learned counsel for the petitioner submits that the contention urged by respondents 3 and 4 that the petitioner's workers should be registered is not correct on account of the Division Bench judgment of this Court in **Nujumudeen v. City Police Commissioner** [2011(3) KLT 268].

5. Having regard to the law laid down by the Division Bench of this Court, we are of the view that respondents 3 and 4 cannot insist that the workers of the petitioner should be registered on account of the fact that it is not a scheme

covered area.

6. In the result, we are of the view that the writ petition can be allowed as under:

If there is any obstruction created by respondents 3 and 4 in the matter relating to the business being carried on by the petitioner, respondents 1 and 2 shall ensure the law and order situation to be maintained and prevent such obstruction.

This writ petition is allowed as above.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

