

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

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 4707 of 2015 (K)

PETITIONER :

C G KUNJACHAN, AGED 67 YEARS
S/O.LATE GEEVARGHESE
CHARIVUPURAYIDATHIL (PARTHALAPADIYIL), KUMBAZHA
KOZHENCHERRY TALUK, PATHANAMTHITTA DISTRICT.

BY ADVS.SRI.ARUN.B.VARGHESE
SRI.JAYKAR.K.S.
SMT.M.B.DHANYA BABU

RESPONDENTS :

1. DISTRICT POLICE CHIEF, OFFICE OF THE DISTRICT POLICE CHIEF
PATHANAMTHITTA - 689 645.
2. THE CIRCLE INSPECTOR OF POLICE, OFFICE OF THE CIRCLE INSPECTOR
OF POLICE, PATHANAMTHITTA - 689 645.
3. THE DISTRICT COLLECTOR,
DISTRICT COLLECTORATE, PATHANAMTHITTA - 689 645.
4. THE VILLAGE OFFICER, VILLAGE OFFICE, PATHANAMTHITTA - 689 645.
5. JOY C. MATHEW, CHARIVUPURAYIDATHIL (PARTHALAPADIYIL),
KUMBAZHA, KOZHENCHERRY TALUK,
PATHANAMTHITTA DISTRICT - 689 645.
6. THE SUB INSPECTOR OF POLICE,
PATHANAMTHITTA POLICE STATION
PATHANAMTHITTA - 689 645.

R1 TO R4 & R6 BY SR.GOVERNMENT PLEADER, SRI. C.R. SYAM KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 4707 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1. TRUE COPY OF COMPLAINT DATED 02.02.2015 SUBMITTED BEFORE
THE 2ND RESPONDENT.

EXHIBIT P1(A). ENGLISH TRANSLATION OF EXHIBIT P1.

EXHIBIT P2. TRUE COPY OF COMPLAINT DATED 02.02.2015 SUBMITTED BY THE
WRIT PETITIONER BEFORE THE 1ST RESPONDENT.

EXHIBIT P2(A). ENGLISH TRANSLATION OF EXHIBIT P2.

EXHIBIT P3. TRUE COPY OF THE REPRESENTATION DATED 02.02.2015 SUBMITTED
BEFORE THE 3RD RESPONDENT.

EXHIBIT P3(A). ENGLISH TRANSLATION OF EXHIBIT P3.

EXHIBIT P4. TRUE COPY OF THE REPRESENTATION DATED 02.02.2015 SUBMITTED
BEFORE THE 4TH RESPONDENT AND ITS ENGLISH TRANSLATION AS
EXHIBIT P4(A).

EXHIBIT P5. TRUE COPY OF THE PLAINT IN O.S.NO.30/15 FILED BY THE
5TH RESPONDENT.

EXHIBIT P6. TRUE COPY OF THE COMPLAINT DATED 09.02.2015 SUBMITTED BY
THE WRIT PETITIONER BEFORE THE 1ST RESPONDENT.

EXHIBIT P6(E). ENGLISH TRANSLATION OF EXHIBIT P6.

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

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

W.P.(C) No. 4707 OF 2015

Dated this the 13th day of February, 2015

JUDGMENT

Shaffique, J.

Petitioner, claiming to be the absolute owner and in possession of 3¼ cents of property in Survey No.K/25/1/1 and paddy land having an extent of 31.30 Ares in Survey No.K/25-4 of Kozhencherry Taluk, complains that the 5th respondent has trespassed into his property and has formed a road. The 5th respondent has already filed a suit, O.S. No.30 of 2015, seeking permanent prohibitory injunction restraining the petitioner from making any obstruction or waste on the road. The suit is still pending consideration. In the mean time attempts have been made by 5th respondent to trespass into the property of the petitioner.

2. Though petitioner had filed several complaints seeking for protection, the Police has not taken any action against the 5th respondent. Ultimately, on 09.02.2015, one goonda by name Joy C. Mathew and the 5th respondent, have threatened the petitioner that they would construct a road by filling up the paddy land and if it is resisted, the petitioner will

be killed. Ext.P6 is the complaint given by the petitioner to the police, but no action has been taken in the matter.

3. Learned Government Pleader on instructions would submit that the dispute between petitioner and 5th respondent is with reference to formation of a road and in the complaint the only prayer was to warn the 5th respondent and his men and to restore his property to its original position. That apart it is submitted that a settlement has been arrived at between the parties.

4. Having regard to the aforesaid submission, we do not think that any direction as sought for is required to be passed in this case. However, we are of the view that Police has to consider Exts.P3 and P4 representations and Ext.P6 complaint and take appropriate action in accordance with law.

With the above observation, the Writ Petition is closed.

**Ashok Bhushan,
Acting Chief Justice.**

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