

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

WP(C).No. 6101 of 2015 (K)

PETITIONER(S):

1. JOSEPH AGED 54 YEARS
S/O.GEORGE, KANDATHIL PARAMBIL HOUSE, EDATHUA VILLAGE
KUTTANAD TALUK, ALAPPUZHA DISTRICT.
2. CHERIYAN
S/O.GEORGE, KANDATHIL PARAMBIL HOUSE, EDATHUA VILLAGE
KUTTANAD TALUK, ALAPPUZHA DISTRICT.
3. THOMAS GEORGE
S/O.GEORGE, KANDATHIL PARAMBIL HOUSE, EDATHUA VILLAGE
KUTTANAD TALUK, ALAPPUZHA DISTRICT.
4. CICILYKUTTY GEORGE
W/O.GEORGE, KANDATHIL PARAMBIL HOUSE, EDATHUA VILLAGE
KUTTANAD TALUK, ALAPPUZHA DISTRICT.

BY ADVS.SRI.K.K.CHANDRAN PILLAI (SR.)
SRI.A.C.DEVASIA

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM
PIN-695 001.
2. SUPERINTENDENT OF POLICE
OFFICE OF THE SUPERINTENDENT OF POLICE, ALAPPUZHA
PIN-688 001.
3. SUB INSPECTOR OF POLICE
EDATHUA, PIN-688 001.
4. SAJU MATHEW
S/O.MATHEW, PEEDIKAPARAMBIL HOUSE, MARIYAPURAM KARA
EDATHUA, PIN-688 006.[DELETED]
5. K.C.JOSEPH, VELUTHEDATHU KALATHIL HOUSE,
CHANGANKIRI, EDATHUA, PIN-688 001.

6. VARGHESE M.J
MANAKKULAM HOUSE, KOYILMUKKU KARA, PANDANKIRY.P.O.
EDATHUA, ALAPPUZHA DISTRICT, PIN-688 001.
7. THANKACHAN
S/O.FRANCIS, PATHIL HOUSE, PANDANKIRI KARA
EDATHUA, ALAPPUZHA DISTRICT, PIN-688 001.
8. THOMAS, KALLOOPARAMBIL HOUSE,
PANDANKIRI KARA, EDATHUA, ALAPPUZHA DISTRICT
PIN-688 001.[DELETED] [RESPONDENTS 4 AND 8 ARE DELETED
FROM THE PARTY ARRAY AS PER ORDER DATED 11.09.2015 IN IA 11641/15]
9. SIBICHAN, OLAKKAPADIYIL HOUSE, EDATHUA,
ALAPPUZHA DISTRICT, PIN-688 001.
10. KOSHY KURIEN, MALIYIL HOUSE,
EDATHUA, ALAPPUZHA DISTRICT. 688 001.
11. ST.GEORGE CHURCH, EDATHUA,
REPRESENTED BY ITS VICAR,
ALAPPUZHA DISTRICT. 688 001.

R5-R7,R 9-R11 BY ADV. SRI.S.SANAL KUMAR
R5-R7,R 9-R11 BY ADV. SMT.BHAVANA VELAYUDHAN
R5-R7,R 9-R11 BY ADV. SMT.T.J.SEEMA
R1 BY GOVERNMENT PLEADER SRI. C.R. SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- TRUE COPY OF THE SALE DEED DATED 11.8.1972 AND ITS ENGLISH TRANSLATION MARKED AS EXHIBIT P1(A).
- P2- TRUE COPY OF THE GIFT DEED DATED 5.9.2007 IN FAVOUR OF THE 4TH PETITIONER AND TIS ENGLISH TRANSLATION MARKED AS EXHIBIT P2(A).
- P3- TRUE COPY OF THE PARTITION DEED DATED 19.3.2010 AND ITS ENGLISH TRANSLATION MARKED AS EXHIBIT P3(A).
- P4- TRUE COPY OF THE BUILDING PERMIT DATED 1.2.2010 ISSUED BY THE PANCHAYATH.
- P5- TRUE COPY OF THE PROCEEDINGS OF THE EDATHUA GRAMA PANCHAYATH DATED 3.3.2011 AND ITS ENGLISH TRANSLATION MARKED AS EXHIBIT P5(A).
- P6- TRUE COPY OF THE ORDER DATED 2.3.2012 OF THE MUNSIF.
- P7- TRUE COPY OF THE ORDER IN I.A.2984/2012 DATED 8.3.2013.
- P8- TRUE PHOTOGRAPHS SHOWING THE PRESENT POSITION OF THE BUILDING.
- P9- TRUE COPY OF THE JUDGMENT IN O.P.(C) 1566/2013 DATED 30.10.2013.
- P10- TRUE COPY OF THE EXTENDED LICENCE DATED 7.12.2014.
- P11- TRUE COPY OF THE REPRESENTATION BY THE PETITIONERS DATED 27.12.2013 AND ITS ENGLISH TRANSLATION MARKED AS EXHIBIT P11(A).

RESPONDENT(S)' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

Sou.

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

W.P(C). No. 6101 of 2015

Dated this the 5th day of October, 2015

JUDGMENT

Shaffique, J

Petitioner has approached this Court seeking police protection. It is stated that the petitioners had purchased certain items of property, in which they had constructed a building after obtaining necessary building permit from the Local Authority. 95% of the construction has been completed. Private respondents are not permitting the petitioner to proceed with further construction. It is also stated that though complaint has been filed by the private respondents claiming that petitioner is in possession of the property belonging to the 11th respondent, it is stated that the property was measured and it was found that the petitioner was not in possession of any extent of the property other than what they have purchased. The Commissioner appointed by the Civil Court also found that the petitioners were not in possession of any excess land over and above what they had purchased. The

Commission Report was accepted by the Court and ultimately suit was dismissed.

2. According to the petitioners, when there was obstruction from the private respondents and though complaint was given to the Police, necessary protection was not given for completing the construction and hence they have approached this Court.

3. When the above writ petition came up for admission, we have issued an interim order directing the police to ensure maintenance of law and order in the matter relating to the construction of the building belonging to the petitioner.

4. Learned Senior Counsel appearing on behalf of the petitioner submits that despite the interim direction police has not given necessary protection.

5. Learned counsel appearing for respondents 5, 6, 7, 9, 10 and 11 submits that they have not physically obstructed the petitioner from constructing the building. They have only approached the Civil Court for necessary reliefs.

6. Learned Senior counsel submits that on 26.9.2015 and 27.9.2015 there were incidents in which petitioners' construction was obstructed and workers manhandled, in which, proper action was not taken by the police.

7. Learned Government Pleader submits that crime No.969 of 2015 has already been registered and investigation is in progress.

8. The facts being so we are of the view that since the petitioner has a valid building permit and 95% of the construction has been completed, he is entitled to complete the construction. If there is any obstruction from private respondents or their men, the police is bound to take necessary action to maintain law and order and ensure that no obstruction is being caused to the construction of the building. This order will be subject to any further orders passed by the Civil Court.

Writ petition is disposed with the above direction.

Sd/-

ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-+
A.M.SHAFIQUE,
JUDGE

// True copy //