

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

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 6688 of 2015 (I)

PETITIONER(S):

1. N.KRISHNANAND AGED 46 YEARS
S/O NARAYANAN, RESIDING AT 407/199, 1ST FLOOR
GOPAL RESIDENCY, THOTTEKKATTU ROAD, COCHIN-682011.

2. M/S. ASSET HOMES PVT. LTD. AGED 45 YEARS
G-129, (28/34-A), PANAMPILLY NAGAR
ERNAKULAM, PINCODE-682036
REPRESENTED BY ITS MANAGING DIRECTOR, SUNIL KUMAR
S/O VASUDEVAN PILLAI.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENT(S):

1. STATE OF KERALA
DEPARTMENT OF HOME AFFAIRS
GOVERNMENT SECRETARIAT ANNEX
REPRESENTED BY ITS SECRETARY, PINCODE-695001.

2. SUB INSPECTOR OF POLICE
KALAMASSERY POLICE STATION
KALAMASSERY POLICE STATION, KALAMASSERY
ERNAKULAM DISTRICT, PIN:683104.

3. THE KALAMASSERY MUNICIPALITY
REPRESENTED BY ITS SECRETARY, KALAMASSERY
ERNAKULAM DISTRICT, PIN:682033.

4. N.S.KAREEM, AGED 52 YEARS
RESIDING AT NEERUKAVA HOUSE, TOG PASS ROAD
VADAKKEPURAM NAGAR, KALAMASSERY, ERNAKULAM
COCHIN, PIN:683104.

5. ABDUL JABBAR, AGED 57 YEARS
RESIDING AT NEERUKAVA HOUSE, TOG PASS ROAD
VADAKKEPURAM NAGAR, KALAMASSERY, ERNAKULAM
COCHIN, PIN:683104.

6. NISHAD, AGED 38 YEARS
RESIDING AT NEERUKAVA HOUSE, TOG PASS ROAD
VADAKKEPURAM NAGAR, KALAMASSERY, ERNAKULAM
COCHIN, PIN:683104.

BY STATE ATTORNEY SRI. P. VIJAYARAGHAVAN
R4,R5,R6 BY ADV. SRI.P.K.MOHAMMED PUZHAKKARA
BY ADV. SRI.M.K.ABOOBACKER FOR R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 10-03-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

WP (C) .No. 6688 of 2015 (I)

APPENDIX

PETITIONER (S) ' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE PERMIT NO.TP4780/14 DATED 17.6.2014
ISSUED BY THE 3RD RESPONDENT TO THE PETITIONERS, ALONG WITH
ENGLISH TRANSLATION.

EXHIBIT P2: TRUE COPY OF THE APPROVED PLAN ISSUED BY THE 3RD
RESPONDENT MUNICIPALITY TO THE PETITIONERS.

EXHIBIT P3: TRUE COPY OF REPRESENTATION DATED 31.1.2015
SUBMITTED BY THE 2ND PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE RECEIPT DATED 31.1.2015 ISSUED BY
THE 2ND RESPONDENT TO THE 2ND PETITIONER, ALONG WITH
ENGLISH TRANSLATION.

RESPONDENT (S) ' EXHIBITS

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

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W.P. (C) No. 6688 of 2015 – I
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Dated this the 10th day of March, 2015

JUDGMENT

Shaffique, J.

Petitioners have approached this Court seeking police protection alleging that obstruction is being caused by respondents 4 to 6 in the matter relating to construction of drainage and compound wall. According to the petitioners, they have obtained permit as per Ext. P1 from the Municipality for construction of drainage to enable them to drain out rain water from the property belonging to the petitioners as well as other neighbouring people. Ext. P2 is the plan prepared by them showing location of the drainage as well as the manner in which the compound wall and drainage is being constructed.

2. According to them, respondents 4 to 6, who have no reason to cause any obstruction, threatened the petitioners and their workers with dire consequences, if the drainage and compound wall is constructed and they have been prevented from carrying on the construction work. Petitioners submit that they are doing the work in strict compliance of the permit granted by the local authority.

3. The learned counsel appearing for respondents 4 to 6 submits that the intention of the petitioners is to construct the compound wall on the slab of the drainage which will prevent draining of water as well as prevent the facility to remove any clogging, if it so happens, which will eventually amount to water logging in the area.

4. Learned counsel appearing for the 3rd respondent Municipality submits that they have already issued permit for construction of the drainage with certain conditions and if the

conditions are strictly observed, there is no objection on the part of the Municipality.

5. Having regard to the aforesaid submissions, the learned counsel for the petitioners submit that they do not intend to construct the compound wall on the slab of the drainage whereas they will be constructing the compound wall only in accordance with the permit granted by the Municipality and under the strict supervision of the Executive Engineer of the Municipality.

6. Under such circumstances, we do not think that the apprehension expressed by the private respondents is genuine. At any rate, if the construction is being done under the supervision of the Municipality and in accordance with the permit, there cannot be any objection on the part of respondents 4 to 6. If there is any such obstruction, on the complaint of the petitioners, the police is bound to ensure maintenance of law and

order.

Accordingly, this Writ Petition is disposed of directing the 2nd respondent to ensure that law and order is maintained in the matter relating to construction of drainage and compound wall by the petitioner, as per the valid permit issued by the Municipality.

Sd/- ASHOK BHUSHAN ,
Ag. CHIEF JUSTICE

Sd/-A.M.SHAFFIQUE,
JUDGE

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/truecopy/

P.S.toJudge