

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 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C) .No. 7395 of 2015 (Y)

PETITIONER(S) :

ALI MOHAMMED AGED 73 YEARS
S/O.AHAMMED, THANAGATTIL HOUSE, EDATHALA KARA
ALUVA EAST VILLAGE, ALUVA TALUK, ERNAKULAM DISTRICT.

BY ADVS.SRI.SIRAJ KAROLY
SRI.R.PARAMESWARA IYER

RESPONDENT(S) :

1. THE SUB INSPECTOR OF POLICE,
ALUVA EAST POLICE STATION
OFFICE OF THE NSPECTOR OF POLICE, ALUVA EAST, ALUVA-1.

2. THE DISTRICT POLICE CHIEF
ERNAKULAM RURAL, ALUVA-1.

3. ALIYAR
S/O.PAREED, IRIPELIPARAMBIL HOUSE, EDATHALA KARA
EDATHALA, ALUVA EAST VILLAGE, ALUVA TALUK
ERNAKULAM DISTRICT.

4. NABEESA
W/O.MUHAMMED, IRIPPELIPARAMBIL HOUSE, EDATHALA KARA
P.O.EDATHALA, ALUVA EAST VILLAGE, ALUVA TALUK
ERNAKULAM DISTRICT.

5. ALIKUNJU
S/O.MUHAMMED, IRIPPELIPARAMBIL HOUSE, EDATHALA KARA
P.O.EDATHALA, ALUVA EAST VILLAGE, ALUVA TALUK
ERNAKULAM DISTRICT.

6. AZEEZ
S/O.MUHAMMED, IRIPPELIPARAMBIL HOUSE, EDATHALA KARA
P.O.EDATHALA, ALUVA EAST VILLAGE, ALUVA TALUK
ERNAKULAM DISTRICT.

R1 & 2 BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN
R3-R7 BY ADV. SRI.S.B.PREMACHANDRA PRABHU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1. TRUE COPY OF THE TITLE DEED OF THE PROPERTY
EXT.P1(A). ENGLISH TRANSLATION OF EXT.P1.
EXT.P2. TRUE COPY OF THE TAX RECEIPT DATED 2/3/2015.
EXT.P2(A). ENGLISH TRANSLATION OF EXT.P2.
EXT.P3. TRUE COPY OF THE SKETCH PREPARED BY THE REVENUE AUTHORITY
EXT.P3(A). ENGLISH TRANSLATION OF EXT.P3.
EXT.P4. TRUE COPY OF THE BUILDING PERMIT DATED 15/2/2013.
EXT.P4(A). ENGLISH TRANSLATION OF EXT.P4.
EXT.P5. TRUE COPY OF THE DECREE IN OS NO.28/2011 PASSED BY THE TRAIL COURT DATED 20/12/2012.
EXT.P5(A). ENGLISH TRANSLATION OF EXT.P5.
EXT.P6. TRUE COPY OF THE PHOTOGRAPH SHOWING THE LIE AND SURROUNDINGS OF THE PROPERTY
EXT.P7. TRUE COPY OF THE PLAINT IN OS NO.50/13 ON THE FILE OF THE MUNISFF COURT, ALUVA DATED 7/2/2013.
EXT.P7(A). ENGLISH TRANSLATION OF EXT.P7.
EXT.P8. TRUE COPY OF THE WRITTEN STATEMENT CUM OBJECTION DATED 22/10/2013.
EXT.P8(A). ENGLISH TRANSLATION OF EXT.P8.
EXT.P9. TRUE COPY OF THE COMMISSION REPORT DATED 17/2/2014.
EXT.P9(A). ENGLISH TRANSLATION OF EXT.P9.
EXT.P10. TRUE COPY OF THE REQUEST MADE BY THE PETITIONER DATED 28/2/2015.
EXT.P10(A). TRUE COPY OF THE RECEIPT
EXT.P10(B). TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT DATED 2/3/2015.
EXT.P10(B)(a). ENGLISH TRANSLATION OF EXT.P10(A).

RESPONDENT(S) ' EXHIBITS

EXHIBIT R3(a): COPY OF DECREE PASSED BY THE SUB COURT NORTH PARUR IN A.S.55/2014.

/TRUE COPY/

PS TO JUDGE

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

W.P(C).No.7395 of 2015

Dated this the 30th March, 2015

JUDGMENT

Shaffique, J.

The petitioner has approached this Court seeking police protection alleging that respondents 3 to 7 are obstructing the petitioner from constructing a building for which he has valid building permit in terms of Exhibit P4. It is alleged that the private respondents are unnecessarily obstructing the construction activities and the petitioner does not intend to trespass into the property of the private respondents in any manner. There was civil dispute between the parties and on account of the dispute arising between the parties, the obstruction is being caused, which led the petitioner to approach the Police for appropriate protection to construct the building and since no action is taken in the matter, this Writ Petition is filed.

2. Counter affidavit is filed by respondents 3 to 7 inter alia contending that the petitioner's intention is not to make any construction, but removal of earth from the property. The party respondents have no intention to obstruct the construction of the building, whereas the petitioner was trying to remove earth from the boundary of the pathway separating the petitioner's property and the private pathway.

3. Learned counsel for the petitioner, however, would submit that he has no intention to remove earth from the boundary of the pathway, where granite basement has been constructed. He is willing to provide appropriate setback in terms of the building permit and the Building Rules.

4. The learned Government Pleader, on instruction, would submit that no law and order situation has arisen so far in the area, since the petitioner has not started construction of the building.

5. However, in view of the apprehension of the petitioner that there may be law and order situation, we take note of the submission that the petitioner shall construct the building in terms of the building permit providing appropriate setback as provided under the Building Rules. If there is any law and order situation, the first respondent shall ensure that no such situation arises in the area.

With the above observation, the Writ Petition is closed.

**ASHOK BHUSHAN
CHIEF JUSTICE**

**A.M.SHAFFIQUE
JUDGE**

vgs30/3/15