

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 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 8964 of 2015 (U)

PETITIONER(S) :-

MARY T., D/O.LATE K.J.THOMAS,
THUSHARAM APARTMENTS, VARGHESE VILLA, 7/329F
MANHAKKAD, RING ROAD, SHORNUR-1.

BY ADV. SRI.P.JAYARAM

RESPONDENT(S) :-

1. DISTRICT POLICE CHIEF, PALAKKAD - 678 001.
2. CIRCLE INSPECTOR OF POLICE, OTTAPALAM - 679 101.
3. SUB INSPECTOR OF POLICE, SHORNUR-679 121.
4. SUNIL, FATHER'S NAME NOT KNOWN TO THE PETITIONER
NO.303 SECOND FLOOR, THUSHARAM APARTMENTS, MANHAKKAD
RING ROAD, SHORNUR-1.
5. SUHARA K.M., FATHER'S NAME NOT KNOWN TO THE PETITIONER
NO.201 FIRST FLOOR, THUSHARAM APARTMENTS, MANHAKKAD
RING ROAD, SHORNUR-1.
6. AJITH, FATHER'S NAME NOT KNOWN TO THE PETITIONER
NO.203 FIRST FLOOR, THUSHARAM APARTMENTS, MANHAKKAD
RING ROAD, SHORNUR-1.
7. SREENATH PRABHAKAR, FATHER'S NAME NOT KNOWN TO THE PETITIONER
NO.204 FIRST FLOOR, THUSHARAM APARTMENTS, MANHAKKAD
RING ROAD, SHORNUR-1.
8. PRIYA, W/O.SREENATH PRABHAKAR
NO.204, FIRST FLOOR, THUSHARAM APARTMENTS
MANHAKKAD, RING ROAD, SHORNUR-1.
9. PREMAN FATHER'S NAME NOT KNOWN TO THE PETITIONER
NO.104 GROUND FLOOR, THUSHARAM APARTMENTS, MANHAKKAD
RING ROAD, SHORNUR-1.

10. ANUSH FATHER'S NAME NOT KNOWN TO THE PETITIONER
NO.101 GROUND FLOOR, THUSHARAM APARTMENTS, MANHAKKAD
RING ROAD, SHORNUR-1.
 11. RAFEEQ AHAMED, FATHER'S NAME NOT KNOWN TO THE PETITIONER
NO.301 SECOND FLOOR, THUSHARAM APARTMENTS, MANHAKKAD
RING ROAD, SHORNUR-1.
 12. VALSA JOY, FATHER'S NAME NOT KNOWN TO THE PETITIONER
NO.302 SECOND FLOOR, THUSHARAM APARTMENTS, MANHAKKAD
RING ROAD, SHORNUR-1.
 13. MANJU, FATHER'S NAME NOT KNOWN TO THE PETITIONER
NO.301 SECOND FLOOR, THUSHARAM APARTMENTS, MANHAKKAD
RING ROAD, SHORNUR-1.
 14. DEVADAS, FATHER'S NAME NOT KNOWN TO THE PETITIONER
NO.202 FIRST FLOOR, THUSHARAM APARTMENTS, MANHAKKAD
RING ROAD, SHORNUR-1.
 15. T. NARAYANANKUTTY, NO.102, GROUND FLOOR, THUSHARAM APARTMENTS
MANHAKKAD, RING ROAD, SHORNUR-1.
 16. STATE OF KERALA REPRESENTED BY SECRETARY
DEPARTMENT OF HOME AFFAIRS, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695 001
- R1 TO R3 & R16 BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN
BY ADV. SRI.RAJESH SIVARAMANKUTTY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

APPENDIX

PETITIONER(S) ' EXHIBITS :-

EXT.P1 - TRUE COPY OF THE JENMUM SALE DEED NO.802/2012, S.R.O. SHORNUR.

EXT.P1(a) - TRUE ENGLISH TRANSLATION OF EXHIBIT P1.

EXT.P2 - TRUE COPY OF THE COMPROMISE DECISION DATED 19-2-2015 REACHED AMONGST PETITIONER AND PARTY RESPONDENTS AT SHORNUR POLICE STATION.

EXT.P2(a) TRUE ENGLISH TRANSLATION OF EXHIBIT P2.

EXT.P3 - TRUE COPY OF THE ACKNOWLEDGEMENT DATED 18-2-2015 RECEIVED FROM OTTAPALAM POLICE CIRCLE INSPECTOR OFFICE TO THE PETITIONER.

EXT.P4 - TRUE COPY OF THE ACKNOWLEDGEMENT DATED 23-2-2015 ISSUED TO THE PETITIONER FROM SHORNUR POLICE STATION.

EXT.P4(a) - TRUE ENGLISH TRANSLATION OF EXHIBIT P4.

EXT.P5 - TRUE COPY OF THE COMPLAINT DATED 5-3-2015 SUBMITTED BY PETITIONER BEFORE 1ST AND 2ND RESPONDENTS.

EXT.P5(a) - TRUE ENGLISH TRANSLATION OF EXHIBIT P5.

EXT.P5(b) - TRUE COPY OF THE ACKNOWLEDGEMENT RELATING TO EXHIBIT P5 COMPLAINT RECEIVED FROM SHORNUR POLICE STATION.

EXT.P5(c) - TRUE ENGLISH TRANSLATION OF EXHIBIT P5(b) .

EXT.P6 - TRUE COPY OF THE PLAINT IN O.S.NO.102/2015 ON THE FILES OF MUNSIFF'S COURT, OTTAPALAM.

EXT.P7 - TRUE COPY OF THE DISCHARGE SUMMARY CARD DATED 20-12-2014 ISSUED TO THE PETITIONER FROM JUBILEE MISSION HOSPITAL, THRISSUR.

EXT.P8 - TRUE COPY OF THE EXPARTE AD-INTERIM INJUNCTION ORDER DATED 2.3.2015 PASSED BY THE MUNSIFF COURT, OTTAPALAM IN I.A.No.653/2015, O.S.No.102/2015.

EXT.P9 - TRUE ENGLISH TRANSLATION OF EXT.P8.

RESPONDENT(S) ' EXHIBITS :-

EXT.R7(a) - TRUE COPY OF THE AFFIDAVIT AND PETITION FILED BY THE RESPONDENTS AGAINST THE PETITIONER AS I.A.No.653/2015 IN O.S.No.102/2015 BEFORE THE MUNSIFF'S COURT, OTTAPALAM.

//TRUE COPY//

P.A. TO JUDGE

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

W.P.(C) No.8964 of 2015

Dated this the 6th day of April 2015

J U D G M E N T

Shaffique, J.

The petitioner has approached this Court seeking police protection alleging that the private respondents are creating obstruction and other acts of violence against the petitioner, on account of which, the petitioner is unable to reside in the house owned by her.

2. The petitioner has also produced Ext.P6 plaint in O.S.No.102 of 2015 filed by Thusharam Residents Association against the petitioner seeking for a permanent prohibitory injunction restraining the defendant, ie; the petitioner herein and her men from causing any nuisance in the plaint schedule property, which is the apartment complex or from causing any discomfort to the residents of “Thusharam Flats”.

3. Apparently, there is dispute between the petitioner and other apartment owners in regard to the manner in which the petitioner is behaving. However, the petitioner contends

-: 2 :-

that an attempt is being made by other apartment owners, namely; the private respondents, preventing her from entering into her apartment. Though complaints were given to the police, no action has been taken in the matter and therefore, she has approached this Court.

4. A counter affidavit has been filed by 7th respondent for himself and on behalf of respondent Nos.5, 6, 8, 11, 12, 14 and 15 inter alia stating that an interim injunction had been granted in the suit restraining the petitioner from creating any nuisance or committing any acts of waste in the plaint schedule property or from causing any discomfort to the residents of the apartment complex. It is stated that despite the existence of the interim order against the petitioner, she has approached this Court making false allegations against the private respondents. It is further stated that the private respondents are not causing any obstruction to the petitioner residing in her apartment. But the petitioner is causing substantial nuisance to other residents. She is not even paying the common amenity charges or other charges imposed by the Association.

-: 3 :-

5. Learned State Attorney on instructions would submit that the petitioner was filed several complaints against the private respondents, but the report of the police indicates that the petitioner was creating some nuisance as alleged by the private respondents.

6. Having regard to the aforesaid submission, we do not think it necessary to enter into the merits of the allegations or the counter allegations regarding the factual statements in the suit filed by the apartment owners' Association. The parties shall have to approach the civil court for appropriate reliefs and this judgment shall not be treated as affecting the rights of the parties in any way.

7. The only complaint of the petitioner is that she apprehends that the private respondents may prevent her from occupying her apartment. It is submitted by the private respondents that they have no intention to create any such obstruction.

In the result, this writ petition is disposed of permitting the petitioner to file a complaint to the police, if there is any such obstruction from the side of the private

-: 4 :-

respondents or from any other person, in which event, the police shall look into the matter and do the needful.

**Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE**

**Sd/-
A.M. SHAFFIQUE
JUDGE**

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