

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 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

WP(C) .No. 9065 of 2015 (G)

PETITIONER(S) :-

K. KALAYANIKUTTY AMMA, AGED 85 YEARS
W/O. LATE KALAPURAKKAL BHASKARAN NAIR
KARAKKATTU HOUSE, PAVARATTY PO, THRISSUR DISTRICT

BY ADV. SRI.B.RAMACHANDRAN

RESPONDENT(S) :-

1. STATE OF KERALA
REPRESENTED BY SECRETARY, MINISTRY OF HOME,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. THE CIRCLE INSPECTOR OF POLICE,
GURUVAYOOR POLICE STATION, GURUVAYOOR
THRISSUR DISTRICT - 680 101.
3. THE SUB INSPECTOR OF POLICE,
PAVARATTY POLICE STATION , PAVARATHY
THRISSUR DISTRICT - 680 507.
4. MINI K, AGED 43 YEARS
W/O. ARAVINDAKHSAN, KALAPURAKKAL HOUSE, VENKIDANGU P.O.,
THRISSUR - 680 510.
5. MANOJ K, AGED 40 YEARS
S/O. REGHUNADHAN NAIR, KALAPURAKKAL HOUSE
VENKIDANGU P.O., THRISSUR - 680 510.

R4 BY ADV. SRI.S.SREEKUMAR (SR.)
SRI.P.MARTIN JOSE
SRI.P.PRIJITH
SRI.THOMAS P.KURUVILLA

R1 TO R3 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
29-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :-

EXHIBIT P1:TRUE COPY OF SETTLEMENT DEED NO. 469/2000 OF SRO MULLASSERY.

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

EXT.P2: TRUE COPY OF PRELIMINARY JUDGMENT DATED 19.1.2004 IN OS NO.648/2000.

EXT.P3: TRUE COPY OF FINAL DECREE DATED 31.7.2009 PASSED IN IA NO.2733/2004 IN OS NO 648/2000.

EXT.P4: TRUE COPY OF COMPLAINT DATED 19.12.2014.

EXT.P4(a): TRUE ENGLISH TRANSLATION OF EXT.P4.

EXT.P5:TRUE COPY OF ESTIMATE FOR CONSTRUCTION DATED 22.12.2014 ISSUED BY DIVINE CONCRETE WALLS EDAMATTAM.

EXT.P6:TRUE COPY OF COMPLAINT DATED 25.12.2014 LODGED BEFORE THE 3RD RESPONDENT.

EXT.P6(a): TRUE ENGLISH TRANSLATION OF EXT.P6.

EXT.P7: TRUE COPY OF RECEIPT DATED 25.12.2014 ISSUED FROM THE POLICE STATION ACKNOWLEDGING THE RECEIPT OF EXT. P6.

EXT.P7(a): TRUE ENGLISH TRANSLATION OF EXT.P7.

EXT.P8 : TRUE COPY OF DELIVERY REPORT DATED 02/04/2013 E.P.No. 485/2011 IN O.S.No.468/2000 OF THE FIRST ADDITIONAL SUB COURT, THRISSUR.

EXT.P9 : TRUE COPY OF TAX RECEIPT DATED 03/06/2015.

EXT.P10 : TRUE COPY OF POSSESSION CERTIFICATE DATED 23/10/2014.

EXT.P11 : TRUE COPY OF POSSESSION CERTIFICATE DATED 23/10/2014 OF JAYARAJ.

EXT.P12 : TRUE COPY OF SKETCH DATED NIL IN O.S.No.648/2000 OF SUB COURT, THRISSUR.

EXT.P13 : TRUE COPY OF ORDER DATED 21/02/2012 IN I.A.8763/2011 IN O.S.No.1437/2011.

EXT.P14 : TRUE COPY OF JUDGMENT DATED 25/09/2013 IN O.S.No. 544/2013 OF THE SUB COURT, CHAVAKKAD.

WP(C) .No. 9065 of 2015 (G)

EXT.P15 : TRUE COPY OF ORDER DATED 26/11/2014 IN O.P. (C)
No.2394/2014.

RESPONDENT(S) ' EXHIBITS :-

EXT.R4(a) : TRUE COPY OF ORDER IN C.M.A.No.105 OF 2011 DATED 18-
09-2014.

//TRUE COPY//

P.A. TO JUDGE

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

W.P.(C) No.9065 of 2015

Dated this the 29th day of June 2015

J U D G M E N T

Shaffique, J

The petitioner has approached this Court seeking police protection for constructing a compound wall. It is inter alia contended that though the petitioner had constructed a compound wall in respect of the property belonging to her, the same was demolished by respondents 4 and 5. Initially the petitioner had approached the Revenue Divisional Magistrate, who had directed the 3rd respondent to conduct necessary enquiry in the matter. It is pursuant to such an enquiry that the petitioner had constructed a compound wall with police protection, which, according to the petitioner, was demolished by respondents 4 and 5. Since the petitioner is intending to construct a compound wall and she apprehends that respondents 4 and 5 may obstruct the construction of the same, she had submitted an application before the police for rendering protection. As no action has been taken by the police she has approached this Court.

-: 2 :-

2. Counter affidavit has been filed by the 4th respondent inter alia stating that there are civil disputes between the parties in respect of the right over the property, which is lying as a single block and is not identifiable. Though the petitioner had referred to certain decree obtained in a partition suit, all the heirs are not parties to the lis. The respondent had also filed a civil suit for partition of the property, which is still pending.

3. Having regard to the boundary dispute which had arisen between the parties in relation to the properties, which are lying in single block, we do not think that the police can interfere and demarcate the boundary to enable the petitioner to construct a compound wall. The petitioner will have to approach the civil court, where the case is pending, for appropriate orders. That apart, since the petitioner had not obtained necessary building permit for construction of the compound wall, we cannot exercise the writ jurisdiction to grant police protection. The police can interfere only if there is any law and order situation.

W.P.(C) No.9065 of 2015

-: 3 :-

Accordingly, we dismiss the writ petition with liberty to the petitioner to approach the appropriate civil court and obtain necessary orders.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

Jvt