

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 9927 of 2015 (M)

PETITIONER(S) :-

1. M/S.ARTECH REALTORS PVT. LTD A PRIVATE LIMITED COMPANY
INCORPORATED UNDER THE INDIAN COMPANIES ACT 1956 HAVING ITS
REGISTERED OFFICE AT TC 15/1453 (6), AIR ROAD, VAZHUTHAKKADU
THIRUVANANTHAPURAM - 695 014 REPRESENTED BY
ITS MANAGING DIRECTOR T.S.ASOK, AGED 48 YEARS,
S/O.THANKAPPAN NAIR, RESIDING AT TC 4/248-5, GOVINDAM
GRA - 15 GOKULAM JUNCTION, KURAVANKONAM
THIRUVANANTHAPURAM - 695 003.
2. B.SIVADAS, FLAT NO. 3D, ARTECH DEEPAM, ANAYARA
ANAYARA P.O., THIRUVANANTHAPURAM - 695 029.
3. SAJITHA G.NATH, FLAT NO. 14 D, ARTECH DEEPAM, ANAYARA
ANAYARA P.O., THIRUVANANTHAPURAM - 695 029.

BY ADVS.SRI.L.MOHANAN
SMT.LIGEY ANTONY

RESPONDENT(S) :-

1. CIRCLE INSPECTOR OF POLICE, PETTAH CIRCLE
PETTAH, THIRUVANANTHAPURAM, PIN - 695 025.
2. SUB INSPECTOR OF POLICE
PETTAH POLICE STATION, THIRUVANANTHAPURAM - 695 025.
3. THANKAPPAN CHETTIAR, AGED 65 YEARS
S/O.KUMARAN CHETTIAR, TC 76/155, ARA - 54
ANAYARA P.O., THIRUVANANTHAPURAM - 695 029.
4. JAYARAJ, AGED 34 YEARS, S/O.VENUGOPAL, RESIDING AT TC 76/158,
ARA - 57, ANAYARA P.O., THIRUVANANTHAPURAM - 695 029.
5. RADHA, AGED ABOUT 55, D/O.PARAMESHWARAN CHETTIAR, TC 76/158,
ARA 57, ANAYARA P.O., THIRUVANANTHAPURAM - 695 025.

6. AYYAPPAN GOPAN, AGED ABOUT 35, S/O.GOPALAKRISHNAN,
TC 76/157, ARA 56, ANAYARA P.O., THIRUVANANTHAPURAM - 695 029.
7. VIJI, AGED ABOUT 40, W/O.SURENDRAN, TC 76/155-2,
ANAYARA P.O., ARA 55-1, THIRUVANANTHAPURAM - 695 029.

R3 - R7 BY ADVS. SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.
SRI.GOVIND PADMANAABHAN
SRI.AJIT G.ANJARLEKAR
R1 & R2 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-04-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

APPENDIX

PETITIONER(S) ' EXHIBITS :-

EXT.P1: COPY OF CERTIFICATE OF INCORPORATION OF THE PETITIONER.

EXT.P2: COPY OF THE REGISTERED POWER OF ATTORNEY NO. 163 OF 2009.

EXT.P3: THE COPY OF THE TAX RECEIPTS IN RESPECT OF THE PROPERTY.

EXT.P4: COPY OF THE BUILDING PLAN DATED 16/07/2009.

EXT.P5: COPY OF THE APPROVED SITE AND LOCATION PLAN OF THE CONSTRUCTION.

EXT.P6: COPY OF THE PHOTOGRAPHS OF THE BOUNDARY.

EXT.P7: COPY OF THE REPRESENTATION TO THE 1ST RESPONDENT.

RESPONDENT(S) ' EXHIBITS :- NIL

//TRUE COPY//

P.A. TO JUDGE

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

W.P.(C) No.9927 of 2015

Dated this the 8th day of April 2015

J U D G M E N T

Shaffique, J.

The petitioners have approached this Court seeking police protection. It is contended that the first petitioner has constructed a multi storied complex in certain item of property with all valid permit. The petitioners also contend that for constructing a boundary wall inside the property, they have obtained appropriate building permit from the local authority. The boundary wall, according to them, is being constructed inside the existing boundary wall as a protective wall. This has been obstructed by respondents 3 to 7, who are the neighbours. Though the petitioners had approached the police seeking protection in the matter, no action has been taken in the matter and therefore, they have approached this Court.

2. A counter affidavit has been filed by respondents 3 to 7 inter alia stating that they are persons residing in the opposite side of the existing wall. When the apartment complex was being constructed on their request, certain persons of the petitioners'

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company had offered to surrender land to widen the present way from 1.5 meters to 2 meters. The petitioners have now back out from the said promise. According to the respondents, the promise to widen the road has not been complied by the petitioners. When matters stood thus, an attempt was made by the petitioners to construct a boundary wall, which was obstructed by the neighbours including the private respondents. According to them, the whole idea of the petitioners in getting police protection is to avoid the promise they have given for widening the road. If the road is not widened, the people of the locality will be put in a difficult situation. Learned counsel for the respondents also relied upon the judgments of this Court in **Devadasan S. v. State of Kerala and others** [2005 KHC 916] and **Kallai Abu v. Sub Inspector of Police, Malappuram and others** [2013 (1) KHC 335] to contend that police cannot decide boundary disputes. There is no doubt about the proposition laid down in these judgments. If there is a dispute of boundary between the parties, the same has to be adjudicated by the civil court itself and the police cannot interfere in the matter.

3. At present, the petitioners are constructing a boundary wall inside the existing boundary wall, which cannot be

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obstructed by the private respondents. This is not a case of dispute in the boundary. Hence, if there is any such illegal obstruction, the police is bound to ensure maintenance of law and order.

4. As far as respondents 3 to 7 or any other person in the locality are concerned, if they feel that the petitioners are doing any illegal construction, their remedy is to approach the civil court for appropriate orders.

Reserving the said right of respondents 3 to 7, this writ petition is disposed of directing the respondents 1 and 2 to ensure maintenance of law and order in the matter relating to construction of boundary wall by the petitioners as per the building permit issued by the local authority.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE