

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYASHTA, 1937

WP(C).No.10510 of 2015 (K)

PETITIONER:

**RAMESHAN,S/O.BALAKRISHNAN NAIR,AGED 47 YEARS,
DEVIGOVINDAN,NORTH ARYAD P.O.,ALAPPUZHA.**

**BY ADVS.SRI.S.SHARAN
SMT.S.SINDHU**

RESPONDENT'S:

1. **DISTRICT POLICE CHIEF,ALAPPUZHA DISTRICT,PIN:688 001.**
2. **SUB INSPECTOR OF POLICE,MANNANCHERY POLICE STATION,
ALAPPUZHA - 688 538.**
3. **K.P.ULLAS,SECRETARY,CPI(M) LOCAL COMMITTEE,
CPI(M) LOCALCOMMITTEE OFFICE,THAMPAKACHODU,
ALAPPUZHA-688 522.**
4. **P.J.MOHANAN,PRESIDENT,CONGRESS MANDALAM COMMITTEE,
CONGRESS MANDALAM COMMITTEE OFFICE,
KALAVOOR,ALAPPUZHA - 688 522.**
5. **T.P.VISWANATHAN,PRESIDENT,CONGRESS,WARD NO.13,
MANDALAM COMMITTEE OFFICE,MANNANCHERY,
NORTH ARYAD P.O.,ALAPPUZHA - 688 542.**
6. **MAYA DILEEP,MEMBER,WARD NO.13,
MANNANCHERRY GRAMA PANCHAYATH,
MANNANCHERRY GRAMA PANCHAYATH OFFICE,
ORTH ARYAD P.O.,ALAPPUZHA - 688 542**

**R1 & R2 BY SENIOR GOVT. PLEADER SRI.C.R.SYAMKUMAR.
R5 & R6 BY ADVS.SRI.K.M.FIROZ
SMT.M.SHAJNA
SRI.S.KANNAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 18-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No. 10510 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P-1:TRUE COPY OF THE BASIC TAX RECEIPT DATED 23.10.2014 WITH
ENGLISH TRANSLATION.**

**EXT.P-2:TRUE COPY OF PROCEEDINGS DATED 30.10.2014 OF SUB COLLECTOR,
ALAPPUZHA, WITH ENGLISH TRANSLATION.**

**EXT.P-3:TRUE COPY OF THE COMPLAINT DATED 16.3.2015 SUBMITTED BY THE
PETITIONER WITH 2ND RESPONDENT WITH ENGLISH TRANSLATION.**

**EXT.P-4(a):A TRUE COPY OF THE PLAN OF THE PROPOSED COMPOUND WALL
FOR MR.RAMESHAN.**

**EXT.P-4(b):A TRUE COPY OF THE SITE PLAN & SERVICE PLAN OF THE
PROPOSED COMPOUND WALL FOR MR.RAMESHAN.**

**EXT.P5:A TRUE COPY OF THE BUILDING PERMIT NO.C3 9022/14
DATED 24.11.2014 ISSUED BY THE MANNANCHERRY GRAMA
PANCHAYATH.**

**EXT.P6:A TRUE COPY OF THE BASIC THANDAPER REGISTER, B1.03,
THANDAPER NO.17247 ISSUED BY THE VILLAGE OFFICER,
KOMALAPURAM,TOGETHER WITH ENGLISH TRANSLATION.**

**EXT.P-6(a):TRUE COPY OF THE APPLICATION DATED 30.3.2015 SUBMITTED BY
4TH AND 5TH RESPONDENTS BEFORE THE DISTRICT
COLLECTOR,ALAPPUZHA ALONG WITH THE ENGLISH TRANSLATION.**

RESPONDENT'S' EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

ASHOK BHUSHAN, CJ

&

A.M. SHAFFIQUE, J.

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W.P (C) No.10510 of 2015

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Dated this, the 18th day of June, 2015

J U D G M E N T

Shaffique, J

Petitioner has approached this Court seeking police protection based on Ext.P2 permit granted by the Sub Collector, Alappuzha. It is contended that as per Ext.P2, he was entitled to reclaim the pits in the property and when he started doing so, respondents 3 to 6 and certain persons in the locality had obstructed the said work and had threatened the petitioner with dire consequences if he proceeds with the said work. Petitioner, therefore, submitted Ext.P3 complaint to the police. Since no action has been taken in the matter, he has approached this Court.

2. Counter affidavit has been filed by respondents 5 and 6 *inter alia* stating that property of the petitioner is part of a paddy field and the intention of the petitioner is to raise the level of the property. If so, the adjacent paddy fields will be affected as

-:2:-

free flow of water will be affected. That apart, drainage channels will be blocked as a result of which free flow of water will be prevented. Further, it is stated that complaint had been given to the revenue authorities on the basis of which notice had been issued by the Village Officer and necessary enquiry is being conducted in the matter. A petition is also submitted before the District Collector, Alappuzha as Ext.R6(a), which is pending consideration.

3. Learned counsel for the petitioner relying upon additional documents produced in the case submits that a building permit has already been issued by the local authority for constructing a boundary wall in the property belonging to the petitioner and now obstruction is being caused to the said construction of the boundary wall.

4. Learned Government Pleader on instructions would submit that based on the complaint submitted by the private respondents to the District Collector, enquiry had been conducted by the Village Officer and a report has been forwarded to the Tahsildar concerned. The matter is to be enquired into after hearing all the concerned parties, which may take some time.

-:3:-

5. Having regard to the aforesaid factual situation, it is clear that there is dispute between the petitioner and the persons in the locality regarding the nature of land as well as the free flow of water through the drainage channels especially since the petitioner's property is nearby a padasekharam. This issue can be resolved only by the District Collector after hearing the affected parties. Until such time, we do not think that we will be justified in issuing any direction as sought for.

Accordingly, we dismiss the writ petition with liberty to the petitioner to approach the District Collector, who will take appropriate proceedings in accordance with law.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp

//True Copy//

PS to Judge