

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 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

WP(C).No. 10909 of 2015 (K)

PETITIONER(S):

- 1. MUSLIYARAKATH ZAINABA, AGED 57 YEARS,
D/O. MALIYEKKAL MOHAMMED MUSLIYAR,
W/O. M.T.USMANKOYA, M.T.HOUSE, NEAR R.M.HOSPITAL,
BEYPORE P.O., KOZHIKODE-673 001.**
- 2. M.T.USMANKOYA HAJI, AGED 68 YEARS,
S/O. M.T.MOHAMMED HAJI, M.T.HOUSE, NEAR R.M.HOSPITAL,
BEYPORE P.O., KOZHIKODE-673 001.**

**BY ADVS.SRI.PHILIP ANTONY CHACKO
SRI.P.M.SEBASTIAN**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. CIRCLE INSPECTOR OF POLICE (C.I.),
CHEMMANGAD POLICE STATION, CHEMMANGAD, KALLAI P.O.,
KOZHIKODE DISTRICT-673 003.**
- 3. SUB INSPECTOR OF POLICE (S.I.),
CHEMMANGAD POLICE STATION, CHEMMANGAD, KALLAI P.O.,
KOZHIKODE DISTRICT-673 003.**
- 4. VENUGOPALAN, AGED 56 YEARS,
S/O.SUBADRA, HOUSE NO.14/567,
THOTTOOLIPADAM, FRANCIS ROAD,
NAGARAM AMSOM DESOM, KALLAI P.O.,
KOZHIKODE, PIN - 673 003.**
- 5. SUDHAKARAN, AGED 51 YEARS,
S/O.SUBADRA, HOUSE NO.14/567,
THOTTOOLIPADAM, FRANCIS ROAD,
NAGARAM AMSOM DESOM, KALLAI P.O.,
KOZHIKODE, PIN - 673 003.**

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6. HAREESH, AGED 51 YEARS,
S/O.SUBADRA, HOUSE NO.14/567,
THOTTOOLIPADAM, FRANCIS ROAD,
NAGARAM AMSOM DESOM, KALLAI P.O.,
KOZHIKODE, PIN - 673 003.
7. USHA, AGED 54 YEARS,
W/O. SAHADEVAN, HOUSE NO.14/568,
THOTTOOLIPADAM, FRANCIS ROAD,
NAGARAM AMSOM DESOM, KALLAI P.O.,
KOZHIKODE, PIN - 673 003.
8. NISHAN ROBIN, AGED 36 YEARS,
S/O.USHA, HOUSE NO.14/568,
THOTTOOLIPADAM, FRANCIS ROAD,
NAGARAM AMSOM DESOM, KALLAI P.O.,
KOZHIKODE, PIN - 673 003.
9. NIYAS, AGED 34 YEARS,
S/O.USHA, HOUSE NO.14/568,
THOTTOOLIPADAM, FRANCIS ROAD,
NAGARAM AMSOM DESOM, KALLAI P.O.,
KOZHIKODE, PIN - 673 003.

R1-R3 BY STATE ATTORNEY SRI.P.VIJAYA RAGHAVAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
07-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 10909 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : THE TRUE COPY OF THE JUDGMENT DTD.8.7.2011 IN OS NO.330 OF 2011 BY THE COURT OF THE PRINCIPLE MUNSIF-I, KOZHIKODE.

P2 : THE TRUE COPY OF THE JUDGMENT DTD.26.3.2013 IN AS NO.141 OF 2011 BY THE COURT OF THE IIND ADDL. DISTRICT JUDGE, KOZHIKODE.

P3 : THE TRUE COPY OF THE JUDGMENT DTD.2.9.2014 IN RSA NO.1193 OF 2013 BY THE HON'BLE HIGH COURT OF KERALA.

P4 : THE TRUE COPY OF THE COMPLAINT DTD.11.9.2013 FILED BY THE 2ND PETITIONER BEFORE THE 3RD RESPONDENT.

P4(A): THE TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P4.

P5 : THE TRUE COPY OF THE ORDER PROCEEDINGS DTD.30.4.2014 ISSUED BY THE TOWN PLANNING OFFICER, KOZHIKODE CORPORATION TO THE 1ST PETITIONER.

P6 : THE TRUE COPY FO THE COMPLAINT DTD.20.10.2014 FILED BY THE 2ND PETITIONER BEFORE THE 3RD RESPONDENT.

P6(A): THE TRUE COPY OF ENGLISH TRANSLATION OF EXT.P6.

P7 : THE TRUE COPY OF COMPLAINT DTD.11.12.2014 FILED BY THE 2ND PETITIONER BEFORE THE 2ND RESPONDENT.

P7(A): THE TRUE COPY OF ENGLISH TRANSLATION OF EXT.P7.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.P.C.No.10909 of 2015

Dated this the 7th day of September 2015

J U D G M E N T

Shaffique, J

Petitioners have approached this Court seeking police protection in the matter relating to construction of a building in terms with Ext.P5 building permit dated 30/04/2014. According to the petitioner, there was a dispute with respondents 4 to 9 which have already been settled by interference of the Civil court. That apart, there being karaima rights, they were given pattas by the Land Tribunal and the petitioners have obtained building permit to construct building in the property which absolutely belongs to them.

2. Though notice was served, there is no appearance for respondents 4 to 9.

3. The learned Government Pleader, on instructions, would submit that the issue projected by respondents 4 to 9 is with reference to an apprehension that if the petitioner constructs a boundary wall, their right of access will be lost.

4. Having regard to the above factual situation, we are of the view that this writ petition can be disposed of as under:

i) That the 3rd respondent shall ensure maintenance of law and order in the matter relating to construction of building by the petitioner in terms of Ext.P5 building permit.

ii) Petitioner shall ensure that right of way or access to the property of respondents 4 to 9 shall not be affected by making any construction in the property of the petitioner.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)
(A.M.SHAFFIQUE, JUDGE)

jsr

