

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 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

WP(C).No. 11044 of 2015 (E)

PETITIONERS :

1. BAIJU.M.NAIR, MANDADI HOUSE,
PAROPADY, MALAPARAMBA P.O., AGED 46 YEARS
KOZHIKODE - 673 009.
2. RAJAN R., SIVARAMAPURAM, FLORICAN ROAD,
CIVIL STATION P.O., KOZHIKODE - 673 009.
3. M/S.QUEEN'S HABITATS (P) LTD., 11/128. GROUND FLOOR, PRAMOD
BUILDINGS CHEROOTY ROAD
KOZHIKODE - 673 001 REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADVS.SRI.C.K.KARUNAKARAN
SRI.JOPHY POTHEN KANDANKARY

RESPONDENTS :

1. STATE OF KERALA REPRESENTED BY SECRETARY, HOME DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. COMMISSIONER OF POLICE, KOZHIKODE - 673 001.
3. CIRCLE INSPECTOR OF POLICE, OFFICE OF THE CIRCLE INSPECTOR OF
POLICE, CHEVAYOOR, KOZHIKODE - 673 017.
4. STATION HOUSE OFFICER, CHEVAYOOR POLICE STATION,
KOZHIKODE - 673 017.
5. VIJAYAKUMAR, SUB INSPECTOR OF POLICE (RETD), S/O.MADHAVAN NAIR,
"SUKRUTHA", OPPO.SILVR HILLS HIGHER SECONDARY SCHOOL
PAROPPADY, MALAPARAMBA P.O., KOZHIKODE - 673 009.
6. SANTHOSH K., S/O.CHOYI, KARAKKADU PARAMBA,
VELLIMADUKUNNU P.O., KOZHIKODE - 673 012.

7. MOHANAN T., S/O.APPU, POTTAMMAL HOUSE,
MALAPARAMBA P.O., KOZHIKODE - 673 009.

8. SASANKAN, POTTAMMEL PARAMBA, MALAPARAMBA P.O.,
KOZHIKODE - 673 009, M.G.ROAD, RAVIPURAM
ERNAKULAM - 682 016.

R5-R7,R 8 BY ADV. SRI.C.R.SIVAKUMAR

R5-R7 BY ADV. SMT.MINI.M.NAIR

R5-R7 BY ADV. SRI.ELDHO MATHEW

R BY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
22-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT P1. COPY OF BUILDING PERMIT DATED 02.02.14.

EXHIBIT P1A. COPY OF ENGLISH TRANSLATION OF EXHIBIT P1.

EXHIBIT P2. COPY OF PHOTOGRAPHS SHOWING OBSTRUCTION CREATED BY
RESPONDENTS 5 TO 8.

EXHIBIT P3. COPY OF HOSPITAL OP TICKER, ADMISSION RECEIPT, EMERGENCY
OUT PATIENT REPORT, DISCHARGE CARD RELATING TO THE SITE
SUPERVISOR.

EXHIBIT P4. COPY OF FIR DATED 25.03.15.

EXHIBIT P4A. COPY OF ENGLISH TRANSLATION OF EXHIBIT P4.

EXHIBIT P5. COPY OF DESHABHIMANI NEWSPAPER DATED 25.3.15.

EXHIBIT P5A. COPY OF ENGLISH TRANSLATION OF EXHIBIT P5.

EXHIBIT P6. COPY OF COMPLAINT DATED 24.3.15 MADE TO 3RD RESPONDENT.

EXHIBIT P6A. COPY OF ENGLISH TRANSLATION OF EXHIBIT P6.

EXHIBIT P7. COPY OF THE COMPLAINT DATED 27.3.15 MADE TO THE
2ND RESPONDENT.

EXHIBIT P7A. COPY OF ENGLISH TRANSLATION OF EXHIBIT P7A.

EXHIBIT P8. COPY OF COMPLAINT DATED 11.04.2015, AND THE COPY OF THE
INTERIM ORDER DATED 06.04.2015.

EXHIBIT P8A : ENGLISH TRANSLATION OF EXHIBIT P8.

EXHIBIT P9. COPY OF COMPLAINT DATED 21.04.2015.

EXHIBIT P9A. ENGLISH TRANSLATION OF EXHIBIT P9.

EXHIBIT P10. COPY OF COMPLAINT DATED 23.04.2015 AND FIR DATED 23.04.2014.

EXHIBIT P10A. ENGLISH TRANSLATION OF EXHIBIT P10.

EXHIBIT P11. COPY OF COMPLAINT DATED 25.04.2015.

EXHIBIT P11A. ENGLISH TRANSLATION OF EXHIBIT P11.

EXHIBIT P12. COPY OF COMPLAINT DATED 06.05.2015 AND FIR DATED 06.05.2015.

EXHIBIT P12A. ENGLISH TRANSLATION OF EXHIBIT P12.

EXHIBIT P13. COPY OF LETTER DATED 06.05.2015 OF THE 4TH RESPONDENT
ADDRESSED TO THE ASSISTANT MOTOR VEHICLE INSPECTOR.

EXHIBIT P13A. ENGLISH TRANSLATION OF EXHIBIT P13.

EXHIBIT P14. COPY OF 4TH RESPONDENT'S LETTER DATED 06.05.2015 TO THE
DUTY MEDICAL OFFICER.

EXHIBIT P14A. ENGLISH TRANSLATION OF EXHIBIT P14.

EXHIBIT P15. COPY OF ACCIDENT-CUM-WOUND REGISTER DATED 06.05.2015.

EXHIBIT P15A. ENGLISH TRANSLATION OF EXHIBIT P15.

EXHIBIT P16. PHOTOGRAPHS SHOWING OBSTRUCTING OF THE TRUCK.

EXHIBIT P17. PHOTOGRAPHS SHOWING DEFACING OF WALL WITH BURNT OIL.

EXHIBIT P18. COPY OF COMPLAINT DATED 18.05.2015.

EXHIBIT P18A. ENGLISH TRANSLATION OF EXHIBIT P18.

EXHIBIT P19. COPY OF COMPLAINT DATED 19.05.2015.

EXHIBIT P19A. ENGLISH TRANSLATION OF EXHIBIT P19.

EXHIBIT P20. COPY OF FIR DATED 19.05.2015.

EXHIBIT P20A. ENGLISH TRANSLATION OF EXHIBIT P20.

EXHIBIT P21. COPY OF O.P. TICKET DATED 19.05.2015.

EXHIBIT.P22. PHOTOGRAPHS SHOWING ILLEGAL TRESPASS.

EXHIBIT P23. COPY OF FIR DATED 19.05.2015.

EXHIBIT P23A. ENGLISH TRANSLATION OF EXHIBIT P23.

EXHIBIT P24. COPY OF O.P. TICKET DATED 19.05.2015.

EXHIBIT P25. PHOTOGRAPHS SHOWING STONES PELTED INTO THE
COMPUND OF THE HOUSE.

EXHIBIT P26. COPY OF STATEMENT DATED 18.06.2015 SUBMITTED BEFORE
THE SDM.

EXHIBIT P27. COPY OF REPORT DATED 24.06.2015 OF EXECUTIVE ENGINEER.

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EXHIBIT P28. COPY OF OFFICE NOTE IN FILE NO.TP 10/57709/15 OF
CORPORATION OF COCHIN.

EXHIBIT P28A. ENGLISH TRANSLATION OF EXHIBIT P28.

EXHIBIT P29. PICTURES OF PILING OPERATIONS AT PETITIONERS' SITE.

EXHIBIT P30. COPY OF ACKNOWLEDGEMENT ISSUED BY CHEVAYUR
POLICE STATION.

EXHIBIT P30A. ENGLISH TRANSLATION OF EXHIBIT P30.

RESPONDENTS' EXHIBITS :

EXHIBIT R7(1) : TRUE COPY OF THE COMPLAINT DATED 19.05.2015 WITH
ENGLISH TRANSLATION.

EXHIBIT R7(2) : TRUE COPY OF THE UNDATED REPORT OF THE VILLAGE OFFICER
WITH ENGLISH TRANSLATION.

EXHIBIT R7(3) : TRUE COPY OF THE REPORT OF THE ADDITIONAL TAHSILDAR
DATED 21.03.2015 WITH ENGLISH TRANSLATION.

EXHIBIT R7(4) : TRUE COPY OF THE ORDER DATED 30.05.2015 OF THE
SUB DIVISIONAL MAGISTRATE, KOZHIKODE.

EXHIBIT R7(5) : TRUE COPY OF THE SETTLEMENT REGISTER DATED 07.07.2015
ISSUED BY THE VILLAGE OFFICER, CHEVAYOOR.

/TRUE COPY/

PA TO JUDGE

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

W.P.(C) No. 11044 OF 2015

Dated this the 22nd day of July, 2015

JUDGMENT

Shaffique, J.

Petitioners have approached this Court seeking police protection. It is *inter alia* alleged that they are undertaking construction of an apartment building on the property owned by 1st and 2nd petitioners. Ext.P1 is the building permit. It is stated that they have all statutory clearances and approvals from the competent authorities.

2. Allegations raised by the petitioners are that respondents 5 to 8 are threatening the workers and supervisors of the petitioners with dire consequences, if they proceed to carry out the work. This according to the petitioners, is only for negotiating their illegal demands. It is alleged that respondents 5 to 8 have no right to create law and order situation in the construction site. On account of the illegal demands made by the private respondents, petitioners have approached the police seeking police protection. Since police has not taken any action, this Writ Petition is filed.

3. A counter affidavit has been filed by respondents 6 and 7 *inter alia* stating that they have not threatened the petitioners in any manner. They have only complained to the site supervisor about the lack of drainage in the work site which leads to flowing of effluence directly to the paddy field which is the source of drinking water of the local people. According to them, the work is being done, without a proper drainage system, to accommodate more than 80 families which would cause severe problems to the nearby habitants.

4. Having regard to the aforesaid factual circumstances, we are of the view that if at all respondents 5 to 8 have any contention regarding pollution, nuisance or any other factor, which may require prevention of the construction, they cannot take law into their hands and physically prevent the petitioners from effecting the construction. Their remedy is to approach the competent authorities or court of law to ventilate their grievances. If there is any obstruction to the construction activities done by the petitioners, Police is bound to ensure

maintenance of law and order in the area. Under such circumstances, we dispose of the writ petition as under:

Respondents 3 and 4 are directed to ensure law and order in the area in question in the matter relating to construction being carried out by the petitioners in their property and shall ensure that no obstruction is being caused by respondents 5 to 8 or their men. This is without prejudice to the right of respondents 5 to 8 to take appropriate measures in accordance with law.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**