

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 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

WP(C) .No. 11283 of 2014 (I)

PETITIONER :-

RAJESH, AGED 36 YEARS,  
S/O.SANKER, R/A.LAXMI NIVAS, PARAKADAVU VILLAGE  
KUNNASSERY P O, ERNAKULAM DIST, PIN-683579

BY ADVS.SRI.S.SREEKUMAR (SR.)

SRI.CHARLES KARL  
SRI.JIJO THOMAS  
SRI.SURAJ.S  
SRI.ANESH PAUL  
SRI.ANEESH JAMES  
SRI.K.C.ELDHO

RESPONDENTS :-

1. STATE OF KERALA REP BY THE SECRETARY TO THE GOVERNMENT  
DEPARTMENT OF HOME AFFAIRS, GOVERNMENT SECRETARIAT  
THIRUVANANTHAPURAM-695001
2. THE SUB INSPECTOR OF POLICE  
CHENGAMANADU POLICE STATION, ALUVA, ERNAKULAM-683574
3. M K PRAVEEN, AGED 29 YEARS  
S/O.KRISHNANKUTTY NAIR, MEENA NIVAS  
NEDUMBASSERY VILLAGE, ERNAKULAM DIST, PIN-683579
4. SUDHEESH RAVI, AGED 28 YEARS  
S/O.K.K.RAVI, KALAYAMKUDATHU HOUSE, KARUMASSERY P O  
ERNAKULAM-683579
5. JIJO ANTONY, AGED 45 YEARS,  
S/O.ANTONY, PAYYAPPALLY HOUSE, MALLUSSERY  
VATTAPARAMBU, ERNAKULAM-683579

R3 & R5 BY ADV. SRI.J.ABHILASH  
BY ADV. SRI.SUNIL KUMAR KURIAKOSE  
R1 & R2 BY SR.GOVERNMENT PLEADER SRI.P.I.DAVIS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
27-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

APPENDIX

PETITIONER(S) ' EXHIBITS :-

EXT.P1:-A TRUE COPY OF THE PERMIT DTD 22/2/2012 ISSUED BY THE NEDUMBASSERY GRAMA PANCHAYATH TO THE PREDECESSOR OF THE PETITIONER.

EXT.P2:-A TRUE COPY OF THE REPORT OF THE VILLAGE OFFICER, NEDUMBASSERY DTD 20/5/2013 FILED BEFORE THE DISTRICT COLLECTOR, ERNAKULAM.

EXT.P3:-A TRUE COPY OF THE RELEVANT PAGE OF THE NOTIFICATION DTD 14/12/2009 IN THE KERALA GAZETTE.

EXT.P4:-PHOTOGRAPHS SHOWING THE PRESENT LIE AND NATURE OF THE PROPERTY.

EXT.P5:-A TRUE COPY OF THE ORDER DTD 28/11/2013 OF THE DISTRICT COLLECTOR, ERNAKULAM.

EXT.P6:-A TRUE COPY OF THE SHOW CAUSE NOTICE ISSUED BY THE SECRETARY, NEDUMBASSERY GRAMA PANCHAYATH.

EXT.P7:-A TRUE COPY OF THE ORDER DTD 31/5/2013 IN APPEAL NO 15 OF 2013.

EXT.P8:-A TRUE COPY OF THE JUDGMENT IN WPC NO 1675 OF 2014 DTD 17/2/2014.

EXT.P9:-A TRUE COPY OF THE ORDER OF THE SECRETARY, NEDUMBASSERY GRAMA PACHAYATH DTD 14/3/2014.

EXT.P10:-A TRUE COPY OF THE COMPLAINT DTD 1/4/2014 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT POLICE OFFICER ALONG WITH ITS TRUE ENGLISH TRANSLATION.

EXT.P11:-A TRUE COPY OF RECEIPT DTD 1/4/2014 ISSUED BY THE 2ND RESPONDENT ACKNOWLEDGING THE RECEIPT OF EXT.P10 SUBMITTED BY THE PETITIONER.

EXT.P12:-A TRUE COPY OF THE ORDER DATED 1.8.2014 IN I.A.No.1216 OF 2014 IN O.S.No.529 OF 2014 OF THE MUNSIF'S COURT, ALUVA.

RESPONDENT(S) ' EXHIBITS :- NIL

//TRUE COPY//

P.A. TO JUDGE

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

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**W.P.(C) No.11283 of 2014**  
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**Dated this the 27<sup>th</sup> day of May 2015**

**J U D G M E N T**

**Shaffique, J.**

The petitioner has approached this Court seeking police protection for construction of a compound wall in terms of Ext.P1 permit dated 22.2.2012. It is submitted that the Predecessor-in-interest of the petitioner had obtained the said permit. As per the permit conditions, the petitioner was permitted to construct a compound wall having length of 47 meters in a property having extent of 52 cents in Re-Survey No.131-10, 75/12 and 13 of Nedumbassery Village.

2. The petitioner submits that when steps were taken for construction of the compound wall, it was obstructed by respondents 3 to 5 and their men. The validity of the permit also came to be challenged and ultimately, by an order passed by the Tribunal for Local Self Government Institutions, the matter was re-considered by the Grama Panchayat and Ext.P9 order dated 14.3.2014 was passed, by which, the show cause notice issued against the petitioner was withdrawn.

3. The petitioner further submits that he had obtained an order from the Revenue Divisional Officer for cultivating the property with agricultural crops and in order to protect the property, he requires to construct a compound wall. When there was obstruction from respondents 3 to 5, an application was submitted to the police for rendering necessary police protection. Since no action has been taken by the police in this regard, the petitioner has approached this Court seeking police protection.

4. Learned counsel appearing for respondents 3 to 5 submits that a civil suit is pending between the parties as O.S.No.529 of 2014 and an interim injunction has been granted by the Munsiff's Court, Aluva in I.A.No.1216 of 2014. Further it is contended that the action of the petitioner is to construct a compound wall more than what is provided under Ext.P1 permit. According to the learned counsel, the petitioner is permitted to construct compound wall only upto a length of 47 meters.

5. We have perused the injunction order produced as Ext.P12, wherein, restriction imposed on the petitioner is only

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in constructing a compound wall in violation of the permit. Under such circumstances, the respondents cannot take a contention that the petitioner is not entitled to construct the compound wall.

6. Further, we find that Ext.P1 permit is dated 22.2.2012. The petitioner submits that by Ext.P9 order, the Panchayat had impliedly agreed to extend the permit. If the permit is not valid as on date, the petitioner has to re-validate the same. Having regard to the aforesaid factual situation, we are of the view that since the private respondents do not intend to create any obstruction in the matter relating to construction of compound wall having a length of 47 meters as provided in the permit, this writ petition is disposed of as under :-

- (i) The petitioner shall comply with the directions issued by the Munsiff's Court in I.A.No.1216 of 2014 in O.S.No.529 of 2014 and shall construct a compound wall only to the extent of 47 meters as permitted in Ext.P1.
- (ii) If the petitioner is not having a valid permit, the petitioner shall obtain revalidation of the permit.

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(iii) If there is any obstruction from the side of respondents 3 to 5 or any other person, on the request of the petitioner, the police shall look into the matter and do the needful to maintain law and order situation.

**Sd/-  
ASHOK BHUSHAN  
CHIEF JUSTICE**

**Sd/-  
A.M. SHAFFIQUE  
JUDGE**