

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C) .No. 11431 of 2015 (D)

PETITIONER(S) :-

1. ELSAMMA CHERIAN, AGED 68 YEARS, W/O.LATE DEVASIA
RESIDING AT THARAPPEL HOUSE FROM VARADAKUZHY, ATHIRAMPUZHA,
PADINJETTUM BHAGAM KARA, ATHIRAMPUZHA VILLAGE, KOTTAYAM.
2. HARNEYMOL CHERIAN PANICKER, D/O.CHERIAN,
RESIDING AT THARAPPEL HOUSE FROM VARADAKUZHY,
ATHIRAMPUZHA, PADINJETTUM BHAGAM KARA,
ATHIRAMPUZHA VILLAGE, KOTTAYAM.

BY ADV. SRI.M.J.THOMAS

RESPONDENT(S) :-

1. THE DISTRICT SUPERINTENDENT OF POLICE, KOTTAYAM - 686 001.
2. THE CIRCLE INSPECTOR OF POLICE, ETTUMANOOR - 686 101.
3. THE SUB INSPECTOR OF POLICE, ETTUMANOOR POLICE STATION,
ETTUMANOOR - 686 101.
4. ROSELY SEBASTIAN, D/O.DEVASIA RESIDING AT PULAYARUTHOTTATHIL HOUSE,
KALATHOOR P.O., KURAVILANGAD, KOTTAYAM - 686 001.
5. P.T.BABY, PULAYARUTHOTTATHIL, KALATHOOR P.O.,
KURAVILANGAD, KOTTAYAM - 686 001.

R1 TO R3 BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-04-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

APPENDIX

Petitioner's Exhibits :-

Ext.P1 :- True copy of the judgment in OS No.178/1996 of the Sub Court, Pala.

Ext.P2 :- True copy of the decree in the above suit OS No.178/1996 of the Sub Court, Pala.

Ext.P3 :- True copy of the delivery kycheet in EP No.219/2009 in OS No.178/96.

Ext.P3(a) :- English translation of Ext.P3.

Ext.P4 :- True copy of the land tax receipt dated 22/7/2014 issued to the 1st petitioner.

Ext.P4(a) :- English translation of Ext.P4.

Ext.P5 :- True copy of the land tax receipt issued in favour of the 2nd petitioner.

Ext.P5(a) :- English translation of Ext.P5.

Ext.P6 :- True copy of the possession certificate along with the location plan in respect of the property of the 1st petitioner.

Ext.P6(a) :- English translation of Ext.P6.

Ext.P7 :- True copy of the possession certificate along with the location plan issued to the 2nd petitioner.

Ext.P7(a) :- English translation of Ext.P7.

Ext.P8 :- True copy of the interim order dated 14/2/2007 in WP(C) No.5137/2007 of this Hon'ble Court.

Ext.P9 :- True copy of the judgment in WP(C) 5137/2007 dated 6.3.2007.

Ext.P10 :- True copy of the complaint filed by the petitioners to the 3rd respondent on 2.4.2015.

Respondent's Exhibits :- NIL.

//True Copy//

P.A. to Judge

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

W.P.(C) No.11431 of 2015

Dated this the 7th day of April 2015

J U D G M E N T

Shaffique, J.

The petitioners have approached this Court seeking police protection inter alia contending that the petitioners have got ownership and title in respect of 1 Acre 66 cents of property and further extent of 69 cents comprised in Block No.27 in Re-survey Nos.466/2, 7 and 466/2 of Athirampuzha Village. According to the petitioners, the said property was obtained by virtue of a decree passed and possession was also taken as per the direction issued by the court.

2. The averments in the writ petition clearly discloses that respondents 4 and 5 are forcibly trespassing into the property belonging to the petitioners and trying to reduce portion of the property to their illegal possession and attempting to commit act of waste into the property, in which, they have no manner of right. As far as the decree obtained by the petitioners in O.S.No.178 of 1996 is concerned, the said judgment declared the petitioners' title and the petitioners were given liberty to

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recover the possession of the property. In so far as the present complaint relates to right of enjoyment of the property, we do not think that the police can interfere in the matter unless there is any offence committed or attempt to commit offence.

In the result, this writ petition is disposed of reserving the right of the petitioners to approach the civil court for obtaining appropriate orders. We only make it clear that if there is any offence being committed or attempt to commit offence, on the complaint of the petitioners, the police shall look into the matter and do the needful.

**Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE**

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