

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

WP(C).No. 11466 of 2015 (G)  
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PETITIONER(S) :-  
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JOY VARGHESE ALUKKAS, AGED 59 YEARS  
S/O.JOSEPH VARGHESE ALUKKAS, ALUKKAS HOUSE  
KURIACHIRA.P.O., THRISSUR DISTRICT  
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER MONU MOHANAN  
AGED 30 YEARS, S/O.MOHANAN NAIR, MANIMALA HOUSE  
THAZHAM.P.O, PATHANAMTHITTA VILLAGE, KOZHENCHERY TALUK  
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S) :-  
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1. THE COMMISSIONER OF POLICE, THRISSUR CITY  
THRISSUR DISTRICT-680 001.
2. THE CIRCLE INSPECTOR OF POLICE,  
PERAMANGALAM POLICE STATION, THRISSUR DISTRICT-680 545.
3. THE SUB INSPECTOR OF POLICE,  
PERAMANGALAM POLICE STATION  
THRISSUR DISTRICT-680 545
4. K.RAJENDRAN, FATHERS NAME NOT KNOWN TO THE PETITIONER,,  
AGED 60 YEARS, MAMAKULAM PARAMBIL HOUSE, PRESIDENT  
PUZHAKKAL SHASTA TEMPLE, PUZHAKKAL.P.O  
PUZHAKKAL VILLAGE, THRISSUR DISTRICT-680 553.
5. APPU, FATHERS NAME NOT KNOWN TO THE PETITIONER  
AGED ABOUT 65 YEARS, PONNENPALA HOUSE, SECRETARY  
PUZHAKKAL SHASTA TEMPLE, PUZHAKKAL.P.O  
PUZHAKKAL VILLAGE, THRISSUR DISTRICT-680 553.
6. ADAT GRAMA PANCHAYATH, THRISSUR DISTRICT, PIN-580 551  
REPRESENTED BY ITS SECRETARY.
7. THE SECRETARY, ADAT GRAMA PANCHAYATH,  
THRISSUR DISTRICT, PIN-580 551.

R5 BY ADV. SRI.G.SREEKUMAR (CHELUR)  
R6 & R7 BY ADV. SRI.K.B.GANGESH  
R4 BY SRI.K.R.ARUN KRISHNAN  
R1 TO R3 BY SR.GOVERNMENT PLEADER SRI.P.I.DAVIS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :-

EXHIBIT P1: TRUE COPY OF THE TAX RECEIPT OF THE PROPERTY OF PETITIONER DATED 20.9.2014 ISSUED BY THE VILLAGE OFFICER, PUZHAKKAL VILLAGE.

EXHIBIT P1A: TRUE COPY OF THE ENGLISH TRANSLATION OF TAX RECEIPT OF THE PROPERTY OF PETITIONER DATED 20.9.2014 ISSUED BY THE VILLAGE OFFICER, PUZHAKKAL VILLAGE.

EXHIBIT P2: TRUE COPY OF THE TITLE DEED OF THE PETITIONER DATED 12.8.2011 REGISTERED AS DOCUMENT NO.2881 OF 2011 OF AYYANTHOLE SUB REGISTRAR OFFICE, THRISSUR DISTRICT.

EXHIBIT P3: TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED TO THE PETITIONER BY PUZHAKKAL VILLAGE OFFICE DATED 10-03-2015.

EXHIBIT P4: THE TRUE COPY OF THE DESCRIPTION OF ROAD ISSUED BY ADAT GRAMA PANCHAYATH.

EXHIBIT P4A: THE TRUE COPY OF THE ENGLISH TRANSLATION OF DESCRIPTION OF ROAD ISSUED BY ADAT GRAMA PANCHAYATH.

EXHIBIT P5: THREE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT DATED 31.3.2015.

EXHIBIT P6: TRUE COPY OF THE DATA BANK ISSUED BY THE KRISHI BHAVAN, ADAT GRAMA PANCHAYATH.

EXHIBIT P6(a) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P6.

EXHIBIT P7: TRUE COPY OF THE SKETCH OF THE TEMPLE PROPERTY ALONG WITH SKETCH OF ROAD.

RESPONDENT(S) ' EXHIBITS :- NIL

//TRUE COPY//

P.S. TO JUDGE

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

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**W.P(C).No.11466 of 2015**  
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**Dated this the 5<sup>th</sup> June, 2015**

**JUDGMENT**

**Shaffique, J.**

The petitioner has approached this Court seeking Police protection. It is submitted that the petitioner has purchased certain item of property having an extent of 20.55 Ares in Re.Sy.No.222/14 of Puzhakkal Village. According to him, he intended to raise the level of the land for the purpose of agricultural operation and the said property is not a paddy or wet land.

2. It is submitted that respondents 4 and 5 have threatened the petitioner that he cannot transport earth through the road in front of the temple, which is the only access to the petitioner's property.

3. It is contended by learned counsel for the petitioner that the road is a public road and therefore, the

petitioner has every right to move vehicles for transportation of earth through the said property. It is also stated that the private respondents have no right to interfere with such usage of public pathway. Though complaint was given to the Police, no action was taken by them, hence the petitioner has filed this Writ Petition.

4. Counter affidavit has been filed on behalf of respondents 4 and 5 inter alia contending that the petitioner has no right to use the pathway in front of the temple, which belongs to the temple and therefore the sale deed which gives right to the petitioner to use the said pathway is void. Therefore, according to them, the petitioner has no right to use the said pathway as well. It is also stated that the actual nature of the property is paddy land and the intention of the petitioner is to convert the same.

5. The learned Government Pleader, on instructions, submitted that on enquiry it is understood that the road leading to the petitioner's property is a public pathway and the temple authorities are obstructing use of vehicles on the ground that the property will be substantially damaged.

Apart from that they have also a dispute as to whether it is a public pathway or not. Having regard to the nature of allegations urged, the Police can interfere in such issues, only if there is law and order situation.

6. According to the petitioner, his vehicles are being obstructed, though he has right to use the pathway for access to his property. The fourth respondent has a contention that the road is not a public pathway, whereas the intention of the petitioner is to take his vehicle through the temple property. In such event it is always open for the fourth respondent to approach the Civil Court and obtain appropriate injunction. They also dispute the title of the petitioner wherein the right to use the pathway has been provided in the sale deed itself. The fourth respondent has also a contention that the property of the petitioner cannot be converted as it is in violation of the Kerala Conservation of Paddy Land and Wet Land Act, 2008.

7. Having regard to the submission of the parties, we are of the view that this Writ Petition can be disposed of with the following directions:

- i. The petitioner shall produce a certificate from the Agricultural Officer in the area indicating that the property is not a paddy land as provided under the Kerala Conservation of Paddy Land and Wet Land Act, 2008, before the second respondent Circle Inspector of Police.
- ii. The petitioner shall also produce a certificate from the 6<sup>th</sup> respondent Panchayat indicating that the pathway in question is a public pathway.
- iii. If the authorities are of the opinion that it is not a paddy field and that the pathway is a public pathway, respondents 2 and 3 shall ensure maintenance of law and order, if there is any obstruction being caused by respondents 4 and 5 or their men, in regard to the use of the said road/pathway by the petitioner or their men.
- iv. The above directions are without prejudice to the right of the parties to move the civil court for appropriate reliefs.

**ASHOK BHUSHAN  
CHIEF JUSTICE**

**A.M.SHAFFIQUE  
JUDGE**