

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

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

WP(C).No. 13402 of 2015 (A)

PETITIONER:

**G.ASOKAN,
NIKHIL BHAVAN, MANALI, MOONGODU.P.O,
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.SHABU SREEDHARAN
SRI.S.VIJAYAN
SRI.N.MUHAMMAD SAJU
SRI.C.PAULOSE
SRI.SREEDHARAN KARATTA
SMT.RESHMA ABDUL RASHEED**

RESPONDENTS:

- 1. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, VAZHUTHAKKAD,
THIRUVANANTHAPURAM-695036.**
- 2. THE SUB INSPECTOR OF POLICE,
POLICE HEAD QAUARTES, VAZHUTHAKKAD,
THKIRUVANANTHAPURAM-695573.**
- 3. PRABHAKUMARI,
KIZHAKKUMKARA PUTHEN VEDU, MANALI, MOONGODU..P.O
THIRUVANANTHAPURAM-695144.**
- 4. JAYAKUMAR,
BATHHEL BHAVA, MANALI, MOONGODU.PO,
THIRUVANANTHAPURAM-695144.**

R1 & 2 BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 13402 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 TRUE COPY OF THE ORDER IN I.A.4797/2012 IN O.S.916/2012 DATED
26.6.2013.**
- EXT.P2 THE TRUE COPY OF THE JUDGMENT WP(C)30355/2014
DATED 14.11.2014**
- EXT P3 THE TRUE COPY OF THE ORDER IN I.A.5000/2014 IN OS 916/2012
DATED 8.1.2014**
- EXT.P4 THE TRUE COPY OF THE I.A.857/2015 DATAED 10.2.2015**
- EXT.P5 THE TRUE COPY OF THE COMPLAINT DATED 23.3.2014.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.13402 of 2015

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Dated this the 5th day of June, 2015

JUDGMENT

Alleging that the first respondent is not enforcing Ext.P1 order of status quo passed by the Munsiff's Court, Nedumangad, the petitioner has come up before this Court.

2. The petitioner is conducting quarrying operations in his property. He along with the co-owners of the said property filed O.S No.916 of 2012 before the Munsiff's Court, Nedumangad seeking a permanent injunction restraining respondents 3 and 4 from encroaching upon the said property, conducting blasting operations and from transporting rocks from there. As per Ext.P1, the Munsiff's Court was pleaded to pass a status quo order. However, the respondents have been continuing with the same in violation of Ext.P1 order.

3. Though the petitioner filed W.P(C) No.30355 of 2014 before this Court for a direction to respondents 1 and 2 to enforce Ext.P1 order, as per Ext.P2 judgment the writ petition was dismissed with an observation that the petitioner can seek his remedy by filing an

appropriate application before the civil court where the suit is pending. Therefore, the petitioner filed I.A No.5000 of 2014 before the court below to get Ext.P1 enforced. As per Ext.P3 order, the I.A was allowed by directing the 2nd respondent to enforce the order.

4. However, instead of complying with Ext.P3, the 2nd respondent has been aiding the respondents 3 and 5 in continuing with their activities. Though he filed Ext.P4 petition before the court below to take appropriate action against the respondent, no order has been passed. Hence, he preferred Ext.P5 complaint, but it could not evoke any positive response. It is with this background, the petitioner has come up before this Court.

5. I have heard the learned counsel for the petitioner and the learned Government Pleader.

6. The learned counsel for the petitioner invited my attention to Ext.P3 submitted that by Ext.P3 order, the Station House Officer was directed to enforce the status quo order as maintained by both sides. The question whether the defendants violated the status quo order was left open to be decided in the suit itself.

As it appears from the record that the matter is pending consideration of a civil court, an interference by this Court in

exercise of the powers under Article 226 of the Constitution, at this juncture, is unwarranted. Therefore, the writ petition is closed reserving the right of the petitioner to agitate the issue before the Munsiff's Court concerned.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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