

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 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

WP(C) .No. 13522 of 2015 (M)

PETITIONERS :-

1. MANHA SEENATH, AGED 41 YEARS
D/O.P.K.MOOSA, "P.K.HOUSE", XI-381
CONVENT ROAD, CHERUKUNNU, KANNUR DISTRICT-670 301.
2. BAPANTAKATH BASHEER, AGED 48 YEARS
"P.K.HOUSE", XI-381, CONVENT ROAD
CHERUKUNNU, KANNUR DISTRICT-670 301.

BY ADVS.SRI.A.K.ABDUL AZEEZ
SRI.T.K.SASINDRAN

RESPONDENTS :-

1. THE SUPERINTENDENT OF POLICE, KANNUR DISTRICT-670 002.
2. THE SUB-INSPECTOR,
KANNAPURAM POLICE STATION, KANNUR-670 010.
3. MANHA NABEESUMMA, AGED 63 YEARS,
D/O MAMMAD, "P.K.HOUSE", XI-381
CONVENT ROAD, CHERUKUNNU, KANNUR DISTRICT-670 301.
4. MANHA MUSTAFA, S/O.P.K.MOOSA, "P.K.HOUSE", XI-381
CONVENT ROAD, CHERUKUNNU, KANNUR DISTRICT-670 301.
5. MANHA UBAID, S/O.P.K.MOOSA, "P.K.HOUSE", XI-381
CONVENT ROAD, CHERUKUNNU, KANNUR DISTRICT-670 301.
6. MANHA AFSATH, D/O.P.K.MOOSA, "P.K.HOUSE", XI-381,
CONVENT ROAD, CHERUKUNNU, KANNUR DISTRICT-670 301.
7. MANHA KADEEJA, D/O.P.K.MOOSA, "P.K.HOUSE", XI-381,
CONVENT ROAD, CHERUKUNNU, KANNUR DISTRICT-670 301.

R3, R4, R6 & R7 BY SRI.K.RAJESH SUKUMARAN
R1 & R2 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
22-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :-

EXT.P1 : TRUE COPY DOCUMENT DATED 18.11.1993 TO SHOW THE
OWNERSHIP OF THE 1ST PETITIONER.

EXT.P2 : TRUE COPY OF THE POSSESSION CERTIFICATE DATED 7.3.2014
ISSUED IN FAVOUR OF THE PETITIONER BY THE VILLAGE OFFICER,
KANNAPPURAM.

EXT.P3 : TRUE COPY OF THE BUILDING PERMIT VIDE A2.2814/14 DATED
21.5.2014 ISSUED BY THE SECRETARY, KANNAPPURAM GRAMA PANCHAYATH.

EXT.P4 : TRUE COPY OF THE PLAN APPROVED BY THE SECRETARY,
KANNAPPURAM GRAMA PANCHAYATH.

EXT.P5 : TRUE COPY OF THE COMPLAINT DATED 20.4.2015 SUBMITTED
BEFORE THE 1ST AND 2ND RESPONDENTS.

RESPONDENT(S) ' EXHIBITS :- NIL

//TRUE COPY//

P.A. TO JUDGE

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

W.P.(C) No.13522 of 2015

Dated this the 22nd day of May 2015

J U D G M E N T

Shaffique, J.

Petitioners have approached this Court seeking police protection for constructing a compound wall, for which, they had obtained building permit from the Grama Panchayat as Ext.P3. Ext.P4 is the plan of the property and the front gate. It is submitted by the petitioners that respondents 3 to 7 are obstructing the construction of compound wall.

2. A counter affidavit has been filed by the 3rd respondent inter alia stating that if the compound wall is constructed as contemplated, it will affect the right of access to other properties.

3. Learned Government Pleader on instructions would submit that on receipt of the complaint, police had visited the site. The measurement was undertaken by the parties and boundary has been fixed by the Village Officer. In the light of Ext.P3 building permit, the petitioners are entitled to construct the compound wall.

4. Learned counsel appearing for respondents 3, 4, 6 and 7 submits that the respondents are intending to challenge the

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building permit as well as to approach the civil court for fixation of boundaries. If the right of access is denied on account of the construction of compound wall, their remedy is to challenge the building permit as well as to approach the civil court for obtaining appropriate orders. But they cannot take law into their own hands and if any such illegal obstruction is being caused, on the complaint of the petitioners, the police is bound to take appropriate action to maintain law and order situation.

5. Having regard to the aforesaid factual situation, we grant respondents 3 to 7 a week's time to approach the competent authorities to challenge the building permit or to approach the civil court. If no interim order is passed by the said authorities or the court restraining the petitioners from constructing the compound wall, the 2nd respondent shall ensure that no law and order situation is created by the private respondents in the matter relating to construction of compound wall by the petitioners in the light of Exts.P3 and P4, building permit and plan.

This writ petition is disposed of as above.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE