

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 15001 of 2014 (A)

PETITIONER(S):

**VASUDEVAN, AGED 48 YEARS,
S/O.GOPALAN, CHERUPUTHANVILAYIL HOUSE, ANAYADI,
SOORANAD NORTH, KOLLAM. (NOW RESIDING AT NEELAMBARI,
THAMARAKULAM, ALAPPUZHA DISTRICT.)**

**BY ADVS.SRI.RENJITH THAMPAN (SR.)
SMT.P.R.REENA**

RESPONDENT(S):

- 1. DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM. PIN-695 001.**
- 2. SUPERINTENDENT OF POLICE (RURAL),
OFFICE OF SUPERINTENDENT OF POLICE, KOTTARAKKARA,
KOLLAM DISTRICT. PIN-691 506.**
- 3. SUB INSPECTOR OF POLICE,
SOORANAD POLICE STATION, KOLLAM. PIN-690 561.**
- 4. VIJAYAKUMAR,
VASANTHAVILASAM, ANAYADI.P.O., SOORANAD NORTH,
KOLLAM. PIN-690 561.**

**R1-R3 BY GOVERNMENT PLEADER SMT.SAREENA GEORGE
R4 BY ADVS. SRI.N.DHARMADAN (SR.)
SMT.D.P.RENU**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1- TRUE COPY OF THE COMPLAINT BY THE PETITIONER DATED 06.06.2014.**
- P2- TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER DATED
09.06.2014 BEFORE THE 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

ALEXANDER THOMAS, J.

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Dated this the 2nd day of June, 2015.

J U D G M E N T

The case projected by the petitioner is that the contesting respondent No.4, who is residing with his family in the property on the western side of the petitioner's property, has been continuously trespassing in to the petitioner's property and dumping waste including domestic waste into petitioner's property and though the petitioner and his mother have warned the 4th respondent against such criminal activity, the 4th respondent has continued such criminal trespass and dumping waste. When the 4th respondent was questioned about the illegal activity of dumping waste, he acted with vengeance and apart from this, he also had thrown a large number of liquor bottles into the petitioner's property becoming not safe for walking with bare foot for fear of wound that may be caused by broken glass pieces. That detailing out all these aspects the petitioner and his mother approached the 3rd respondent-Sub Inspector of Police, Sooranad Police Station, Kollam District and that the 3rd respondent has refused to register the case due

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to extraneous consideration and that the petitioner has filed Ext.P2 complaint before the 1st respondent-Director General of Police with copy to the 2nd respondent and no effective action is taken thereon. It is in the conspectus of these factual aspects of this case as projected in the petition, the following main prayers are made in the Writ Petition.

“i. To issue a writ in the nature of mandamus commanding the 3rd respondent to register a crime on the basis of Ext.P1, investigate the same and file a final report before the Judicial first Class magistrate Court, Sasthamkotta, within such time as may be fixed by this Hon'ble Court.

ii. To issue a writ in the nature of mandamus commanding the 1st respondent to consider and pass orders on Ext.P2 after affording a opportunity of hearing to the petitioner, within such time as may be fixed by this Hon'ble Court.”

2. The 3rd respondent-Sub Inspector of Police has filed a statement dated 20.6.2014 on behalf of respondents 1 & 2 that on receiving the petition referred to in this matter, the same was registered as IAPS No.79909/2014 dated 9.6.2014 and that the 3rd respondent-Sub Inspector of Police has rushed to the spot and thoroughly investigated the allegations raised in the petition and after conducting special enquiry it was revealed to him that there is no dumping waste in

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the property by the 4th respondent and that the petitioner's property is given for rent for the past several years and the said waste is dumped by the residents of the house which is given as rent by the petitioner that both parties were summoned by the 3rd respondent to the Police Station and he had strictly warned the 4th respondent not to cause any nuisance to the petitioner and his property as alleged by the petitioner and ensured that they have taken steps to ascertain the allegations raised by the petitioner and that it is considered opinion that there is no waste dumping into property by the 4th respondent that if any offence is noticed in future against the 4th respondent or anyone residing in the locality, legal actions will be taken without any further delay. The contesting respondent No.4 has also sworn to counter affidavit dated 26.11.2014 fully rebutting the allegations raised by the petitioner.

3. On a reading of the pleadings in the Writ Petition and the statement of the 4th respondent and statement filed by the official respondents 1 to 3, this Court is of the considered opinion that no extra ordinary situation is involved in the facts of this case so as to invoke extra ordinary jurisdiction conferred on this court under Article 226 of

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the Constitution of India. The 3rd respondent-Sub Inspector of Police has assured in this statement that if any cognizable criminal offence is noticed in future appropriate legal action will be taken by the 3rd respondent against the 4th respondent or anyone responsible without any further delay. The petitioner may also take into account that disputes involving close neighbours or members of the same locality may be endeavoured to be resolved as far as possible through mutual talks and discussions. However, indeed if in future real factual situation, cognizable criminal offences are disclosed, then certainly it is for the police authorities like the 3rd respondent-Sub Inspector of Police to fulfill their statutory duties and this they have already assured in their statement. The petitioner may also consider whether it would be more in the interest of better relationships that close neighbours approach authorities like the Panchayath authorities or some such other agencies if the petitioner is not in talking terms with such neighbours due to such disputes etc., so that all concerned could be brought to the round table of dialogue for friendly dispute resolution process. This is only observations of this Court and it is not in any way binding on the

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petitioner or the 4th respondent and it is only for these parties to act in wisdom. No doubt, if cognizable offences are disclosed, citizens have the right to set in motion the due process of law and it is for the police authorities to take care of such situation by fulfilling their statutory duties.

With these observations directions, this Writ Petition stands finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-