

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 15159 of 2014 (T)

PETITIONER:

THOMAS MAMMEN, AGED 68 YEARS
SAMUTHAYATIL HOUSE, KEEZHUKARA, KOZHENCHERRY
PATHANAMTHITTA DISTRICT.

BY ADVS. SRI. ABRAHAM SAMSON
SMT. LOVELY SAMSON

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY, HOME AFFAIRS
SECRETARIAT, TRIVANDRUM-695001.
2. THE POLICE CHIEF,
PATHANAMTHITTA-689645.
3. SUB-INSPECTOR OF POLICE,
POLICE STATION, ARANMULA-689533.
4. THOMAS.M.PAUL,, AGED 60 YEARS
S/PO.PAUL, THOLUPARAMBIL HOUSE, THEKKEMAL.P.O
KOZHENCHERRY, PATHANAMTHITTA DISTRICT-689641.
5. SOBHA THOMAS,, AGED 58 YEARS
W/O.THOMAS M.PAUL, THOLUPARAMBIL HOUSE, THEKKEMAL.P.O
KOZHENCHERRY, PATHANAMTHITTA DISTRICT-689641.

R1-3 BY SR.GOVERNMENT PLEADER SRI. C.R SYAMKUMAR
R4-R5 BY ADV. SRI.P.HARIDAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 15159 of 2014 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 INJUNCTION ORDER RESTRAINING THE RESPONDENTS 4 & 5 FROM TRESPASSING INTO THE PLAINT SCHEDULE PROPERTY AND FROM COMMITTING WASTE DATED 7.12.2012 IN I.A.2870/2012 IN O.S.494/2012

EXT.P2 COMPLAINT FILED BEFORE THE MINISTER,HOME DEPARTMENT, TRIVANDRUM DATED 19.5.2014 WITH ENGLISH TRANSLATION

EXT.P3 RECEIPTS EVIDENCING SENDING OF THE PETITION, DATED 19.5.2014

EXT.P4 COPY OF THE A/D CARD DATED 20.5.2014.

RESPONDENT(S)' EXHIBITS

EXT.R5(a) - COPY OF THE DISCHARGE SUMMARY OF THIS RESPONDENT DATED 16.12.2008.

EXT.R5(b) - COPY OF THE ORDER OF THE IS HON'BLE COURT PASSED IN WP(C) .15781/2013 DATED 21.6.2013

EXT.R5(c) - COPY OF THE COMPLAINT BEFORE THE 2ND RESPONDENT DATED 6.5.2013 WITH ENGLISH TRANSLATION.

EXT.R5(d) - COPY OF THE DISCHARGE SUMMARY ISSUED FROM DISTRICT HOSPITAL, KOZHENCHERY DATED 17.7.2013

EXT.R5(e) - COPY OF THE CMP No.3028/2014 OF JFCM - 1 OF PATHANAMTHITTA, DATED 6.6.2014 WITH ENGLISH TRANSLATION.

EXT.R5(f) - COPY OF THE RECEIPT ISSUED BY THE 3RD RESPONDENT DATED 22.10.2013 WITH ENGLISH TRANSLATION.

EXT.R5(G) - COPY OF THE RECEIPT ISSUED BY THE 3RD RESPONDENT DATED 9.2.2014 WITH ENGLISH TRANSLATION.

// TRUE COPY //

P.A. TO JUDGE

sou.

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

W.P.(C). No. 15159 of 2014

Dated this the 21st day of January, 2015

J U D G M E N T

Shaffique, J.

Petitioner is living alone in the property. His wife and children are away. She complains that threats are being made by respondents 4 and 5. In fact petitioner has also obtained injunction restraining respondents 4 and 5 from trespassing into the plaint schedule property by filing O.S. No.494 of 2012 before the Munsiff Court Pathanamthitta.

2. According to the petitioner, the interim injunction has been violated and the petitioner had filed an application seeking prosecution of respondents. On account of various crimes committed by respondents 4 and 5, complaints have been lodged. Still the petitioner is facing severe threats including loss of life. He approached the police for protection. Since no action has been taken by the police, he has approached this Court.

3. Counter affidavit has been filed by respondents 4 and 5 inter alia stating that respondents 4 and 5 have also filed civil suits with regard to property dispute. It is submitted that they are not threatening the petitioner as alleged. The fourth respondent

is ailing from Arthritis and the fifth respondent is a cancer patient.

4. Learned Government Pleader on instructions would submit that crime has already been investigated and cases have been charge sheeted, which are pending consideration before the Magistrate Court. It is also submitted that after charge sheeting of the cases, no untoward incident has been reported and as matters stand now, there is no law and order situation.

5. Having regard to the above factual situation, we do not think that a direction as sought for is required to be passed in the case. However, we observe that if any offence is committed or there is attempt to commit offence, it shall be open for the petitioner to approach the police, who shall look into the matter.

With the above observation, the petition is closed.

Sd/-
**ASHOK BHUSHAN,
ACTING CHIEF JUSTICE**

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

sou.

// True copy //