

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

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

WP(C).No. 17779 of 2013 (V)

PETITIONER(S) :

1. ABDUL HAKKIM
S/O.LIRAR T.C NO.467/728.BUSHRA MANZIL
MANIKYA VILAKOM, POONTHURA P.O, THIRUVANANTHAPURAM

2. NAUSHAD,
S/O.SHAMSUDEEN, T.C 45/417, SAHIDA MANZIL
BEEMA PALLY, VALLAKADAVU P.O, THIRUVANANTHAPURAM

3. ABDUL HASAN,
S/O.JAMALUDEEN, T.C 46/799, BEEMA PALLY
VALLAKADAVU P.O, THIRUVANANTHAPURAM

4. ZAKKIR,
S/O.MOHAMMED YUSUF, T.C 45/615 (), ANRA-200
BAITHUL NOOR, AZAD NAGAR, POONTHURA P.O
THIRUVANANTHAPURAM

BY ADVS.SRI.M.R.ANANDAKUTTAN
SMT.M.A.ZOHRA
SRI.MAHESH ANANDAKUTTAN

RESPONDENT(S) :

1. THE ASSISTANT COMMISSIONER OF POLICE
VIZHINJAM POLICE STATION - 695 521

2. CIRCLE INSPECTOR OF POLICE,
VIZHINJAM POLICE STATION, VIZHINJAM P.O
THIRUVANANTHAPURAM - 695 521

3. SUB INSPECTOR OF POLICE,
VIZHINJAM POLICE STATION, VIZHINJAM P.O
THIRUVANANTHAPURAM 695 521

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4. DAMIYEN LOUIS,
S/O.CHINNAPPA LOUIS, SACRED HEART HOUSE
AMBALATHUMoola, KOTTUKAL VILLAGE
THIRUVANANTHAPURAM 695 521

5. HYSENT LOUIS,
S/O.DAMIYAN LOUIS, SACRED HEART HOUSE,
AMBALATHUMoola
KOTTUKAL VILLAGE, THIRUVANANTHAPURAM 695 521

6. THE VILLAGE OFFICER,
KOTTUKAL VILLAGE, THIRUVANANTHAPURAM 695 521

R4 & 5 BY ADV. M/S. GEORGE VARGHESE
PERUMPALLIKUTTIYIL), A.R.DILEEP
& MANU SEBASTIAN
R BY GOVERNMENT PLEADER SRI.C.R. SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 09-01-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

WP (C) .No. 17779 of 2013 (V)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1 TRUE COPY OF SALE DEED NO 107/2008 OF VIZHINJAM SUB REGISTRAR'S OFFICE

EXHIBIT P2 TRUE COPY OF TAX RECEIPT DATED 22-05-2013

EXHIBIT P3 TRUE COPY OF THE JUDGMENT DATED 31-3-1986 IN O,S NO 828/1984 OF THE II ADDL.MUNSIFF'S COURT, NEYYATTINKARA

EXHIBIT P4 TRUE COPY OF ORDER DATED 11-08-2005 IN COMPLAINT NO 758/2004 OF KERALA LOK AYUKTA

EXHIBIT P5 TRUE COPY OF THE SKETCH WITH REPORT OF THE TALUK SURVEYOR

EXHIBIT P6 TRUE COPY OF THE PERMIT AND PLAN

EXHIBIT P7 TRUE COPY OF JUDGMENT DATED 29-06-2009 IN WPC NO 15916 OF 2009(H) OF THIS HONOURABLE COURT

EXHIBIT P8 TRUE COPY OF COMPLAINT FILED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT ON 15-06-2013

/TRUE COPY/

P.S. to Judge

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

.....
W.P. (C) No. 17779 of 2013 – V
.....

Dated this the 9th day of January, 2015

JUDGMENT

Shaffique, J.

Petitioners have approached this Court seeking police protection to the life and property of the petitioners for the purpose of constructing a compound wall around their property. They claimed certain rights in respect of property having an extent of 68 cents in Survey Nos. 473/3-1, 5A, 5B, 5C and 473/4 of Kottukal Village, Vizhinjam, Thiruvananthapuram. According to them, though there is no valid claim on the part of respondents 4 and 5, unnecessarily they have physically obstructed the construction of the compound wall. According to the petitioners, the property is well demarcated and after a long

litigation, they have come into possession of the property. Petitioners also submit that the report of the Village Officer and other authorities supports their right over the property.

2. A counter affidavit has been filed by the 5th respondent inter alia claiming right in respect of certain items of property which form part of the property claimed by the petitioners as well. According to the 5th respondent, a partition suit has been filed as O.S. No. 227/2013 before the Sub Court, Neyyattinkara, which is still pending. It is stated that in view of the pendency of the civil suit, petitioners are not entitled to claim any orders from this Court. That apart, earlier, the petitioners had approached this Court by filing W.P.C. 15916/2009, and no orders have been issued by this Court on the ground that the property could not be identified.

3. Learned counsel for the petitioners, however, would

submit that the property is identifiable and the petitioners are entitled to construct the compound wall.

4. Since there is some dispute relating to the property which is pending consideration before the Civil Court, we do not think that we will be justified in giving a direction as prayed for. Accordingly, without expressing any opinion on the merits of the matter, we relegate the petitioner to approach the civil court for appropriate reliefs.

With this observation, this Writ Petition is Closed.

Sd/- ASHOK BHUSHAN ,
Ag. CHIEF JUSTICE

Sd/-A.M.SHAFFIQUE,
JUDGE

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/truecopy/

P.S.toJudge