

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 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

WP(C).No. 16348 of 2015 (P)

PETITIONER(S) :-

SATHYAN, AGED 32 YEARS
S/O. PADMANABHAN, MADATHIL HOUSE, KAVILUMPARA
KUNDUTHODU, KOZHIKODE DISTRICT, MANAGING PARTNER
VICTORY TILES & SANITARY, VICTORY ARCADE, 1/1179
KAKKAD, PERAMBRA, KOZHIKODE-673525.

BY ADVS.SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENT(S) :-

1. THE CIRCLE INSPECTOR OF POLICE
PERAMBRA POLICE STATION, KOZHIKODE-673525.
2. THE SUB INSPECTOR OF POLICE,
PERAMBRA POLICE STATION, KOZHIKODE-673525.
3. CHIEF EXECUTIVE,
KERALA HEAD LOAD WORKERS WELFARE FUND BOARD
S.R.M.ROAD, ERNAKULAM, KOCHI-682017.
4. THE ASSISTANT LABOUR OFFICER,
KOYILANDY, KOZHIKODE-673305.
5. THE CHAIRMAN,
KERALA HEAD LOAD WORKERS WELFARE FUND BOARD
KOYILANDY COMMITTEE SUB OFFICE, KOYILANDY
KOZHIKODE-673305.
6. KERLA HEAD LOAD WORKERS WELFARE FUND BOARD,
KOZHIKODE DISTRICT COMMITTEE
REPRESENTED BY ITS EXECUTIVE OFFICER, V.K.BUILDING
CHEROOTY ROAD, KOZHIKODE-673001.

7. CENTRAL INDUSTRIAL TRADE UNION (CITU)
POOL C1, C2, NEAR PERAMBRA BUS STAND
PERAMBRA, KOZHIKODE-673525
REPRESENTED BY ITS SECRETARY RAMADASAN.
8. HINDU MAZDOOR SANGH,
POOL C1, C2, NEAR PERAMBRA BUS STAND
PERAMBRA, KOZHIKODE-673525
REPRESENTED BY ITS SECRETARY ASHRAF N.M.
9. SWATHANTHRA THOZHILALI UNION,
POOL C1, C2, NEAR PERAMBRA BUS STAND
PERAMBRA, KOZHIKODE-673525
REPRESENTED BY ITS SECRETARY KAREEM KOOLIKANDY.

R3, R5 & R6 BY SRI.C.S. AJITH PRAKASH, SC, KHWWB
R7-R9 BY ADV. SRI.MOHANAN V.T.K.
BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
31-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

WP(C) .No. 16348 of 2015 (P)

APPENDIX

PETITIONER(S) ' EXHIBITS :-

EEXT.P1 COPY OF THE LICENCE ISSUED BY THE NOCHAD GRAMA PANCHAYATH WITH ENGLISH TRANSLATION.

EXT.P2 COPY OF THE REGISTERED IDENTITRY CARD ISSUED UNDER SECTION 26 A OF THE KERALA HEAD LOAD WORKERS ACT TO SUBEESH S.N . WITH ENGLISH TRANSLATION.

EXT.P3 COPY OF THE REGISTERED IDENTITRY CARD ISSUED UNDER SECTION 26 A OF THE KERALA HEAD LOAD WORKERS ACT TO HAREESH WITH ENGLISH TRANSLATION.

EXT.P4 COPY OF THE REGISTERED IDENTITRY CARD ISSUED UNDER SECTION 26A OF THE KERALA HEAD LOAD WORKERS ACT TO ABU BAKER WITH ENGLISH TRANSLATION.

EXT.P5 COPY OF THE REGISTERED IDENTITRY CARD ISSUED UNDER SECTION 26A OF THE KERALA HEAD LOAD WORKERS ACT TO ASKAR ALI WITH ENGLISH TRANSLATION.

EXT.P6 COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 29/5/2015 WITH ENGLISH TRANSLATION.

EXT.P7 COPY OF THE RECEIPT ISSUED FROM THE 2ND RESPONDENT'S OFFICE DATED 29/5/2015.

RESPONDENT(S) ' EXHIBITS :-

EXT.R7(a) : TRUE COPY OF THE COMPLAINT FILED BEFORE THE ASSISTANT LABOUR OFFICER BY THE HEAD LOAD WORKERS UNION S.T.U., C.I.T.U., H.M.S. CO-ORDINATION COMMITTEE, PERAMBRA ALONG WITH ITS TRUE ENGLISH TRANSLATION.

//TRUE COPY//

P.A. TO JUDGE

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

W.P.(C) No.16348 of 2015

Dated this the 31st day of July 2015

J U D G M E N T

Shaffique, J

The petitioner has approached this Court seeking for police protection inter alia stating that he is having an establishment under the name and style, 'Victory Tiles and Sanitary'. It is stated that the petitioner is having a godown in building No.NP XII/358 A, B, C, D, E at Kaithakkal Panchayat at Nochad, Kozhikode. The petitioner had already employed permanent skilled workers to carry on loading and unloading work and the petitioner has obtained registration for the said workers under the Kerala Headload Workers Act and Rules framed thereunder. Exts.P2 to P5 are the registered identity cards issued in favour of his workers. The complaint of the petitioner is with regard to obstruction being created by respondents 6 to 9 in the matter relating to loading and unloading work being carried on by the petitioner.

2. We have already issued an interim order directing the police to ensure maintenance of law and order in the matter

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relating to loading and unloading work being carried on by the petitioner through his registered employees.

3. Counter affidavit has been filed by respondents 5 to 7 inter alia stating that they have already given a complaint to the Assistant Labour Officer in regard to the loading and unloading work being carried on by the petitioner through his permanent workers.

4. Having regard to the aforesaid factual situation, we are of the view that since the petitioner has employed his own permanent workers, who have identity cards issued under Sec.26A of the Kerala Headload Workers Rules, he is entitled to employ them for loading and unloading activities in his business establishment. As far as the private respondents are concerned, they cannot obstruct the functioning of the petitioner's establishment. If there is any such obstruction, the police, on receipt of the complaint from the petitioner, is bound to take appropriate action and prevent such illegal obstruction. Under such circumstances, we are of the view that this writ petition can be disposed of as under :-

The 2nd respondent shall ensure maintenance of law and order in the matter relating to functioning of the

-: 3 :-

petitioner's establishment, if the petitioner carry on loading and unloading work through his permanent workers, who are having identity cards. However, it will be subject to any decision that may be taken by the Assistant Labour Officer in the complaint given by the private respondents and their men.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

Jvt