

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

WP(C).No. 16359 of 2015 (T)

PETITIONER :

SALEENA AGED 40 YEARS
W/O SHAJAHAN, VARUR VEEDU, EROOR PO
PATHANAPURAM TALUK, KOLLAM DISTRICT

BY ADVS.SRI.D.KISHORE
SMT.MINI GOPINATH
SMT.MEERA GOPINATH

RESPONDENTS :

1. THE SUB INSPECTOR OF POLICE
SASTHAMKOTTA POLICE STATION, KOLLAM DISTRICT 590 621
2. THE GEOLOGIST
DEPARTMENT OF MINING AND GEOLOGY, ASRAMAM
KOLLAM 691 001
3. SANJU, VALIYAVILAYIL, MANNADI PO, ADOOR
PATHANAMTHITTA DISTRICT 689 645
4. SHAFEEQ,KAKKADIVILAYIL, MANNADI PO, ADOOR
PATHANAMTHITTA DISTRICT 689 645
5. SAJU, ELLUMVILAYIL, MANNADI PO, ADOOR
PATHANAMTHITTA DISTRICT 689 645

R1 & R2 BY STATE ATTORNEY, SRI.P.VIJAYARAGHAVAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 TRUE COPY OF THE BUILDING PERMIT NO A4/424/15 DATED 7/3/2015
ISSUED BY THE SECRETARY, KUNNATHUR GRAMA PANCHAYAT.

EXT.P2 TRUE COPY OF THE ORDER NO 128/15-16/DOQ/S2/746/15 DATED
21/5/2015 OF THE 2ND RESPONDENT.

EXT.P2A THE ENGLISH TRANSLATION OF EXHIBIT P2.

EXT.P3 TRUE COPY OF THE COMPLAINT DATED 27/5/2015 SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P3(A) THE ENGLISH TRANSLATION OF EXHIBIT P3.

EXT.P3(B) TRUE COPY OF THE RECEIPT ISSUED FROM THE OFFICE OF THE 1ST
RESPONDENT EVIDENCING THE ACKNOWLEDGMENT OF EXHIBIT P3

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

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

W.P.(C) No. 16359 OF 2015

Dated this the 15th day of June, 2015

JUDGMENT

Shaffique, J.

The petitioner has approached this Court seeking police protection. She has obtained Ext.P1 building permit for construction of a residential building in her property comprised in Resurvey No.492/13/2/1, Block No.17 of Kunnathur Village, Pathanapuram Taluk, Kollam District having an extent of 4.98 Ares of land. According to the petitioner, for the purpose of construction, ordinary earth has to be removed for which purpose she obtained Ext.P2 permit dated 21.05.2015 from the Geologist. However, on the obstruction being created by respondents 3 to 5, the ordinary earth could not be removed from her property. It is stated that they were threatening the petitioner and her workers while attempts were made to remove the ordinary earth. Ext.P3 complaint was submitted to the police for appropriate protection to enable her to remove the ordinary earth from her property and since police did not take any steps in that regard, this Writ Petition is filed.

2. Though notices were ordered on respondents 3 to 5, there is no appearance on their behalf.

3. Learned State Attorney submits that Ext.P2 permission has been granted for removal of earth for a period of 4 days from 26.05.2015 to 29.05.2015 and said period is already over.

4. Having regard to the aforesaid factual situation, we are of the view that respondents 3 to 5 have no right to obstruct the petitioner in the matter of removing ordinary earth from her property as she is having valid permission for the same from the competent authority. It is true that the permit has expired and we are of the view that if the petitioner get renewal of the permit, police shall ensure law and order in the matter of removal of ordinary earth from her property. Accordingly, this writ petition is disposed of as under :

If the petitioner gets renewal of Ext.P2 permit dated 21.05.2015 from the Geologist and is produced before the 1st respondent, the 1st respondent shall ensure maintenance of law

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-:3:-

and order in the matter of removal of ordinary earth from her property.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**

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