

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(C).No. 16901 of 2015 (K)

PETITIONER(S):

- 1. V.V.MANOCHARAN, S/O.LATE NARAYANAN NAIR,
RESIDING AT 'MAINAKAM',EDACHERI,
PALLIKUNNU P.O, KANNUR - 670 004.**
- 2. N.V.SURENDRAN, S/O.K.V.GOPALAN, SREE SYLAM,
P.O PALLIKUNNU, KANNUR - 670 004.**

BY ADV. SMT.SHAMEENA SALAHUDHEEN

RESPONDENT(S):

- 1. DISTRICT SUPERINTENDENT OF POLICE,
KANNUR - 670 001.**
- 2. SUB INSPECTOR OF POLICE,
KANNUR TOWN POLICE STATION,
KANNUR DISTRICT - 670 001.**
- 3. KARIMBIL PRADEEPAN,
S/O.LATE KANDOTH RAMDAS,
KARIMBIL HOUSE, EDACHERRY ROAD,
PALLIKUNNU P.O, KANNUR - 670 004.**
- 4. MINI PRADEEP, W/O.KARIMBIL PRADEEPAN,
KARIMBIL HOUSE, EDACHERRY ROAD,
PALLIKUNNU P.O, KANNUR - 670 004.**

**R1 & R2 BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN
R3 & R4 BY ADVS. SRI.K.C.SANTHOSHKUMAR
SMT.K.K.CHANDRALEKHA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

WP(C).No. 16901 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1. TRUE COPY OF THE JUDGMENT IN RSA 75/2013 DATED 11.7.13.**
- EXHIBIT P2. TRUE COPY OF THE ORDER IN SLP NO.(S)34015/2013 DATED 10.2.2014.**
- EXHIBIT P3. TRUE COPY OF THE JUDGMENT IN OS 282/2005 DATED 19.11.2013.**
- EXHIBIT P4. TRUE COPY OF THE ORDER IN IA 63/14 IN AS 77/2013 DATED 19.2.2014.**
- EXHIBIT P5. TRUE COPY OF THE PETITION DATED 27.5.2015 ALONG WITH THE ENGLISH TRANSLATION.**

RESPONDENT(S)' EXHIBITS:

- EXT.R3(A) : TRUE COPY OF THE JUDGMENT DATED 21.3.2013 IN C.C.NO.7/2010 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT NO.I, KANNUR.**
- EXT.R3(B) : TRUE COPY OF THE INTERIM ORDER DATED 21.3.2013 IN I.A.NO.218/2013 IN O.S.NO.282/2005 ON THE FILE OF THE PRINCIPAL MUNSIFF COURT, KANNUR.**
- EXT.R3(C) : TRUE COPY OF THE LAWYER NOTICE DATED 30.5.2015 ALONG WITH ITS ENGLISH TRANSLATION.**

/TRUE COPY/

P.S. TO JUDGE

mbr/

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

W.P.C.No.16901 of 2015

Dated this the 23rd day of June 2015

J U D G M E N T

Shaffique,J

Petitioners have approached this Court seeking police protection in the matter relating to obstruction being created by respondents 3 and 4 while repairing the road, as directed by the Civil court. According to the petitioners, they are residents in Sy.No.43/3 and are using a common pathway along with the private respondents as well. It is stated that the petitioners were assigned a right of way through the 12 feet width road from the eastern side of their property which leads to the public road. It is stated that certain civil disputes are pending between the petitioners and respondents 3 and 4. A suit for injunction filed by the 3rd respondent was found concurrently against him and attained finality in R.S.A.No.75/2013 which is produced as Ext.P1.

Though special leave petition was filed against the said judgment, the same came to be dismissed.

2. In the meantime, another suit was filed by the petitioners seeking permanent prohibitory injunction restraining the defendants from interfering with the user of the pathway which was decreed ex parte. An application was filed to set aside the ex parte decree and thereafter final judgment was passed on 19/11/2013 which is produced as Ext.P3. By Ext.P3, there was a permanent prohibitory injunction restraining the defendants/respondents 3 and 4 from interfering with the user of pathway.

3. Respondents filed an appeal as A.S.No.77/2013 against Ext.P3 judgment. Petitioners preferred I.A.No.63/2014 for permission to repair the road which was allowed vide Ext.P4 order dated 19/02/2014. Despite the said order, it is complained that the respondents are preventing the repair of the road and accordingly an application was filed before the police. Since no action was

taken by the police, petitioners have approached this Court.

4. Counter affidavit has been filed by respondents 3 and 4 inter alia stating that they have no objection in repairing the road in terms with Ext.P4 order. It is submitted by the learned counsel for the 4th respondent that the 4th respondent is unnecessarily being harassed by the police by summoning her to the police station and asking her to wait for hours together.

5. The learned Government Pleader, on instructions, would submit that the police is ready and willing to provide necessary protection for repairing the road in terms with Ext.P4 order.

6. Having regard to the aforesaid factual situation, we are of the view that respondents 3 and 4 cannot obstruct to the repair of the pathway which has been permitted by the Civil court by virtue of Ext.P4 interim order dated 19/02/2014 in A.S.No.77/2013. Under such circumstances, there will be a direction to the 2nd respondent to ensure

maintenance of law and order, if any obstruction is created by respondents 3 and 4 or any other person in the matter relating to repair of the road by the petitioners in terms with Ext.P4 order. It is made clear that it is always open for respondents 3 and 4 to approach Civil court for appropriate orders.

With the above observation, this writ petition is disposed of.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

