

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 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

WP(C).No. 17179 of 2014 (V)

PETITIONER(S) :

1. M.C.NIRMALA, AGED 54 YEARS
W/O SASIKUMAR, ARUN NIVAS, ARANGAMUGHAL
THIRUVANANTHAPURAM DISTRICT

2. M.C. RAJANI AGED 48 YEARS
D/OJ. CHELLAPPAN, AMBALATHARA HOUSE,
MARANALLOOR P.O
THIRUVANANTHAPURAM DISTRICT

3. M.C SABITHA, AGED 44 YEARS
D/O J. CHELLAPPAN, KEELIYODU PLAVILA VEEDU
MARANALLOOR VILLAGE, THIRUVANANTHAPURAM DISTRICT

4. M.C JAYASREE, AGED 44 YEARS
D/O J. CHELLAPPAN, T.C NO 7/10588(2)4-212,
JAYASREE, CHERIVILA LINE, MARUTHUMKUZHI
THIRUVANANTHAPURAM DISTRICT

BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN

RESPONDENT(S) :

1. STATE OF KERALA,
RERPESENTED BY THE SECRETARY, HOME DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPRUAM 695001

2. THE STATE POLICE CHIEF,
OFFICE OF THE STATE POLICE CHIEF
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM 695001

3. DISTRICT POLICE CHIEF (RURAL),
OFFICE OF THE DISTRICT POLICE CHIEF
THIRUVANANTHAPURAM 695001

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4. DEPUTY SUIPERINTEND OF POLICE,
OFFICE OF THE DEPUTY SUPERINTEND OF POLICE
NEDUMANGADU 695541

5. THE SUB INSPECTOR OF POLICE,
MARANALLOOR POLICE STATION, MARANALLUR
THIRUVANANTHAPURAM 695544

6. M.C RAVI,
D/O J. CHELLAPPAN, KEELIYODU PLAVILA VEEDU
MARANALLOOR VILLAGE
THIRUVANANTHAPRUAM DISTRICT -.695544

BY GOVERNMENT PLEADER SRI. C.R. SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 14-01-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

WP(C).No. 17179 of 2014 (V)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE DECREE IN O.S NO
529/2003 DATED 10-09-2004

EXHIBIT P2 A TRUE COPY OF THE JUDGMENT IN OS
NO 527/2003 DATD 12-02-2014

EXHIBIT P3 A TRUE COPY OF THE COMPLAINT
SUBMITTED BY THE PETITIONER DATED 17-03-2014

EXHIBIT P4 A TRUE COPY OF THE FIR AND FIS IN
CRIME NO 360/2014 OF MARANALLOOR POLICE

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

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W.P. (C) No. 17179 of 2014 – E
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Dated this the 14th day of January, 2015.

JUDGMENT

Shaffique, J.

Petitioners have approached this Court seeking police protection. It is inter alia contended that the 6th respondent is attempting to trespass into the property of the petitioners. An incident happened on 26-4-2014 by which the 6th respondent has attacked the first petitioner and his son. Crime has been registered as Crime No. 360 of 2014 of Maranalloor Police Station for offences punishable under Sections 341, 323, 324 and 427 read with Sec. 34 of IPC. In regard to the dispute relating to

property, the petitioners have filed O.S.No. 529 of 2003 and the said suit has been decreed granting a declaration in favour of the petitioners. Decree has been executed and the petitioners are in possession of the said property. In the said circumstances, according to the petitioners, the 6th respondent has no right to interfere with the possession of the property and create law and order situation.

2. An interim order has been passed by this Court on 14th July, 2014 which reads as under:

“The learned Government Pleader takes notice on behalf of respondents 1 to 5 and seeks two weeks' time to obtain instructions. Issue notice to 6th respondent.

2. The petitioners case in the writ petition is that a decree is passed in their favour by the Civil Court in the Original Suit No. 529 of 2003 with regard to the suit property. It is submitted that the decree has already been executed and the petitioners are in possession of their shares. However, undue interference is being caused by

the 6th respondent, the petitioner's brother. It is submitted that a Criminal Case being Crime No. 360 of 2014 has already been registered. The marriage of the daughter of the Ist petitioner is scheduled to take place on 15-08-2014. It is submitted that concerned police may be directed to take steps so that the law and order will be maintained with regard to the property in question.

In view of the above, we direct that the respondent No. 5 shall ensure that with regard to the property in question, law and order will be maintained as per the decree passed by the Civil Court”.

The learned counsel for the petitioners submits that after the interim order, no untoward incident has been reported and they are in a position to live peacefully on account of the interference by the police.

3. Notice was ordered to the 6th respondent and served on him. But there is no appearance on his behalf.

4. Having regard to the factual statements made as above,

we do not think that any further direction is required to be passed in this case. However, we observe that if there is threat or offence being committed by the 6th respondent, it shall always be open for the petitioners to approach the police who shall, thereafter, look into the matter and act in accordance with law.

With the above observation, this Writ Petition is disposed of.

Sd/-ASHOK BHUSHAN ,
Ag. CHIEF JUSTICE

Sd/-A.M.SHAFFIQUE,
JUDGE

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/truecopy/

P.S. to Judge