

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&**

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

WP(C).No. 17647 of 2015 (E)

PETITIONER(S):

1. **RABIYA, W/O.KHALID, POOVATHINGAL HOUSE,
ATTOOR P.O., MULLOOR (VIA), THIRSSUR.**
2. **ABOOBACKER, S/O.HYDRU, KUNDUVALAPPIL HOUSE,
CHEMBODE, P.O.PANANGATTUKARA, WADAKKANCHERRY, THRISSUR.**

**BY ADVS.SRI.SANTHOSH P.PODUVAL
SMT.R.RAJITHA
SMT.VINAYA V.NAIR**

RESPONDENT(S):

1. **THE SUB INSPECTOR OF POLICE,
WADAKKANCHERRY, THRISSUR-680623.**
2. **HYDRU, S/O.MOIDU, AMMANATH VEEDU, CHEMBODE,
P.O.PERINGATTUKARA, WADAKKANCHERRY, THRISSUR-680623.**
3. **ABDUL SALAM, S/O.HYDRU, AMMANATH VEEDU, CHEMBODE,
P.O.PERINGATTUKARA, WADAKKANCHERRY, THRISSUR-680623.**
4. **BASHEER, S/O.SAIDALI, ALIKKAPEEDIKAYIL HOUSE, CHEMBODE P.O.,
PANANGATTUKARA, WADAKKANCHERRY, THRISSUR-680623.**
5. **UMMER, S/O.SAIDALI, ALIKKAPEEDIKAYIL HOUSE, CHEMBODE P.O.,
PANANGATTUKARA, WADAKKANCHERRY, THRISSUR-680623.**
6. **THE ASSISTANT ENGINEER, IRRIGATION SECTION, VAZHANI,
WADAKKANCHERRY IRRIGATION SUB DIVISION, THRISSUR-680623.**
7. **THE ASSISTANT EXECUTIVE ENGINEER, WADAKKANCHERRY IRRIGATION
SUB DIVISION, WADAKKANCHERRY, THRISSUR-680623.**

**R1,6,7 BY SENIOR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
R2,R3,R4 & 5 BY ADV. SRI.BINDU SREEKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

WP(C).No. 17647 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: COPY OF AGREEMENT NO.A1-771/2013 DATED 21/11/13 AND ITS ENGLISH TRANSLATION**
- P2: COPY OF SKETCH PREPARED BY THE TAHSILDAR, THALAPPILLY TALUK AND ITS ENGLISH TRANSLATION**
- P3: COPY OF THE NOTICE ISSUED BY THE R7 TO THE R2 DATED 1-2-13 AND ITS ENGLISH TRANSLATION**
- P4: COPY OF THE REPRESENTATION DTD.11/2/14 SUBMITTED BEFORE THE R1 AND ITS ENGLISH TRANSLATION.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.P.C.No.17647 of 2015

Dated this the 19th day of August 2015

J U D G M E N T

Shaffique, J

Petitioners have approached this Court alleging that obstruction is being created by respondents 2 to 4 in levelling the canal bund road situated near the petitioner's property for ingress and egress. It is stated that the 1st petitioner owns an extent of 51 cents of property in Sy.No.667/4 of Thekkumkara village which is lying adjacent to Edathukara canal coming under the Vazhani irrigation section. On the request of the petitioner, the Executive Engineer permitted the canal bund road to be levelled for the purpose of entering into the property. An agreement was executed by the 1st petitioner and the 7th respondent on 21/11/2013 incorporating certain conditions concerning the work permitted to be done. Petitioner submits that when he was about to carryout the work, it was obstructed by respondents 2 to 5 who have no right to obstruct the same at all.

2. The learned Government Pleader, on instructions, would submit that, as matters stand now, it may not be possible for the Department to execute Ext.P1 agreement.

3. Learned counsel appearing for respondents 2 to 5 submits that by virtue of the action contemplated by the petitioner in terms of Ext.P1, right of respondents 4 and 5 will be substantially affected.

4. Having regard to the aforesaid factual issues between the parties, we do not think that police can resolve the said issue and accordingly we do not intend to exercise the jurisdiction to direct the police to grant necessary protection to comply with the terms of Ext.P1 agreement. Remedy of the petitioner is to approach the Civil Court for appropriate directions.

With the above observation, this writ petition is dismissed.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

