

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 16TH DAY OF JUNE 2015/26TH JYASHTA, 1937

WP(C).No. 18018 of 2015 (B)

PETITIONERS :

1. MUHAMMED HANEEFA, S/O.PACHERY ABDUL RAHMAN,
PACHEERY HOUSE, PERINTHALMANNA P.O.,
PERINTHALMANNA.
2. FATHIMA, W/O.IQBAL,
VALAKKULAM, PUTHPARAMPU P.O.,
THIRURANGADY.

BY ADV. SRI.M.SREEKUMAR

RESPONDENTS :

1. STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT,
HOME DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.
2. SUB INSPECTOR OF POLICE, NELLELAM POLICE STATION,
KOZHIKODE.
3. P.T. CHANDRAN, MELEODASSERY,
ATHOLITHAZHAM, PANTHEERANKAVU P.O.,
KOZHIKODE - 673 019.
4. KRISHNAKURUP, NEDUMPARAMBUKUNNU,
ATHOLITHAZHAM, PANTHEERANKAVU P.O.,
KOZHIKODE - 673 019.

R1 & R2 BY SR.GOVERNMENT PLEADER, SRI. C.R. SYAM KUMAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT. P1 : TRUE COPY OF ROUGH SKETCH SHOWING THE LIE OF PROPERTY.

EXT.P2 : TRUE COPY OF APPLICATION FILED BY THE 1ST PETITIONER
BEFORE RDO DATED 2901.2013.

EXT.P2(A) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P2.

EXT.P3 : TRUE COPY OF LETTER NO.C.1410/13/L.DIS. DATED 28.05.2013
ISSUED BY THE FDO TO THE 1ST PETITIONER.

EXT.P3(A) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P3.

EXT.P4 : TRUE COPY OF CERTIFICATE NO.549/13 DATED 03.10.2013
ISSUED FROM THE VILLAGE OFFICER.

EXT.P4(A) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P4.

EXT.P5 : TRUE COPY OF CERTIFICATE NO.KBPA 50/13-14 ISSUED FROM THE
AGRICULTURAL OFFICER, PERUMANNA.

EXT.P5 (A) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P5.

EXT.P6 : TRUE COPY OF THE BUILDING PERMIT NO.A3-8228/13 BL.272/13-14
DATED 06.11.2013 ISSUED BY THE SECRETARY, PERUMANNA GRAMA
PANCHAYAT TO THE PETITIONERS.

EXT.P7 : TRUE COPY OF STOP MEMO DATED 25.01.2014 ISSUED BY THE
VILLAGE OFFICER TO THE PETITIONERS.

EXT.P7(A) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P7.

EXT.P8 : TRUE COPY OF PETITION REF.C. NO.3995/2013 FILED BY 3RD
RESPONDENT AND ANOTHER BEFORE RDO DATED 24.01.2014.

EXT.P9 : TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP(C)
NO.7370/14 DATED 03.04.2014.

EXT.P10 : TRUE COPY OF ORDERE NO.C3995/2013 FILED BY 3RD RESPONDENT
AND ANOTHER BEFORE RDO DATED 24.01.2014.

EXT.P10(A) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P10.

EXT.P11: TRUE COPY OF ORDER OF THIS HON'BLE COURT IN WP(C) No.18529/2014
DATED 22.07.2014.

EXT.P12 : TRUE COPY OF COMPLAINT FILED BY THE BROTHER OF 2ND PETITIONER
BEFORE THE 2ND RESPONDENT.

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EXT.P12(A) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P12.

EXT.P13 : TRUE COPY OF FIR NO.541/2015 OF NALLALAM POLICE STATION.

EXT.P13(A) : TRUE COPY OF ENGLISH TRANSLATION OF EXT.P13.

RESPONDENTS' EXHIBITS:

NIL

/TRUE COPY/

PA TO JUDGE

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

W.P.(C) No.18018 of 2015

Dated this the 16th day of June 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard the learned counsel for the petitioners and the learned Government Pleader.

2. This writ petition has been filed by the petitioners seeking for police protection for the construction of a residential house in accordance with Ext.P6 building permit. Petitioners submit that earlier the first petitioner approached this Court seeking to quash Ext.P8 stop memo and in paragraph 3 of the judgment dated 4.4.2014 in W.P.(C) No.7370 of 2014, it was held by this Court as follows :-

“Therefore, there shall be a direction to the second respondent herein to consider and pass orders on the complaint made by the 4th respondent as per Ext.P9, within a period of one month from the date of receipt of a copy of this judgment. The interim order passed will continue as against the operation and implementation of Ext.P8. However, it is made clear that any construction undertaken by the petitioner on the strength of the building permit will be at his risk subject to final orders to be passed on Ext.P9. In the proceedings pending before the Revenue Divisional Officer, an opportunity of hearing shall be given to the petitioner as well as to the fourth respondent.”

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3. Subsequently, the Sub Collector passed a final order, Ext.P10, on 24.6.2014 directing the Panchayat Secretary to take steps to reconsider the building permit, Ext.P6. It was further observed therein that the property was unauthorisedly filled up in violation of the Kerala Land Utilisation Order. Challenging the said order, the first petitioner again filed a writ petition as W.P.(C) No.18529 of 2014, in which, this Court passed an interim order on 22.7.2014, which is produced as Ext.P11.

3. Be that as it may, since the issues have not yet been finalised on the strength of Ext.P11 interim order, we are not inclined to issue any direction for police protection. It shall be open for the petitioners to take appropriate measures after the writ petition, W.P.(C) No.18529 of 2014, is finally decided.

With the above observation, this writ petition is closed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE