

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 18178 of 2015 (V)

PETITIONER(S) :-

SHAJU AUGUSTINE, MANAGING DIRECTOR
SURABHI SUPERME MARBLES & GRANITES (P) LTD.
MARATHAKKARA, PUTHUR, PIN - 680 320
THRISSUR DISTRICT.

BY ADV. SRI.WILSON URMESE

RESPONDENT(S) :-

1. THE SUB INSEPCTOR OF POLICE, OLLUR, PIN - 680 306.
2. THE CIRCLE INSPECTOR OF POLICE, OLLUR, PIN - 680 306.
3. THE ASSISTANT LABOUR OFFICER
IIIRD CIRCLE, CHEMBUKAVU, THRISSUR, PIN - 680 020.
4. HEAD LOAD & GENERAL WORKERS UNION (INTUC)
MARATHAKKARA UNIT, PUTHUR P.O., PIN - 680 320
REPRESENTED BY ITS PRESIDENT, SRI.V.V MURALIDHARAN.

ADDL.5. GYANENDRA KUMAR SHARMA
M/S.R.S.GRANITES, MARATHAKKARA, PUTHUR
THRISSUR, PIN - 680 320.

ADDL.R5 IMPEADED AS PER ORDER DATED 11.08.2015 IN
IA 11761/15.

ADDL.6 THE CHAIRMAN,
KERALA HEAD LOAD WORKERS WELFARE BOARD,
THRISSUR DISTRICT COMMITTEE, 2ND FLOOR,
NEW JAI HIND MARKET, THRISSUR - 680 001.

ADDL.R6 IMPEADED AS PER ORDER DATED 15.10.2015 IN
I.A.No.14904 OF 2015.

R4 BY ADV. SRI.J.JULIAN XAVIER
SRI.FIROZ K.ROBIN
SRI.RAJU JOSEPH (SR.)
BY ADV. SRI.G.SANTHOSH KUMAR (P).
BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :-

EXHIBIT P1. TRUE COPY OF THE IDENTITY CARD ISSUED TO SRI.SAJU M.K. BY THE 3RD RESPONDENT.

EXHIBIT P1(a) . TRUE COPY OF THE IDENTITY CARD ISSUED TO SRI.MANIKANDAN R. BY THE 3RD RESPONDENT.

EXHIBIT P1(b) . TRUE COPY OF THE IDENTITY CARD ISSUED TO SRI.BABU P.N. BY THE 3RD RESPONDENT.

EXHIBIT P1(c) . TRUE COPY OF THE IDENTITY CARD ISSUED TO SRI.SURESH BY THE 3RD RESPONDENT.

EXHIBIT P1(d) . TRUE COPY OF THE IDENTITY CARD ISSUED TO SRI.KRISHNANKUTTY BY THE 3RD RESPONDENT.

EXHIBIT P2. TRUE COPY OF COMPLAINT SUBMITTED BY THE PETITIONER DATED 16.05.2015 BEFORE THE 1ST RESPONDENT WITH ITS ENGLISH TRANSLATION.

EXHIBIT P3. TRUE COPY OF COMPLAINT SUBMITTED BY THE PETITIONER DATED 05.06.2015 BEFORE THE 1ST RESPONDENT.

EXHIBIT P4. TRUE COPY OF THE FRANCHISE AGREEMENT DATED 21.5.2015 ENTERED INTO BETWEEN THE PETITIONER AND ADDL.5TH RESPONDENT.

EXHIBIT P5. TRUE PHOTOGRAPHS OF THE LOADING AND UNLOADING WORK IN THE ESTABLISHMENT OF THE PETITIONER, USING MECHANICAL DEVICES.

EXHIBIT P6. TRUE COPY OF THE ORDER DATED 17.8.2015 IN WP(C) No.24598/2015 Y.

RESPONDENT(S) ' EXHIBITS :-

EXHIBIT R4(a) : TRUE COPY OF THE INFORMATION RECEIVED UNDER RIGHT TO INFORMATION ACT DATED 6.6.2015 FROM THE OFFICE OF THE STATE PUBLIC INFORMATION OFFICER, PUTHOOR GRAMA PANCHAYAT.

EXHIBIT R4(a) (i) : ENGLISH TRANSLATION OF EXT.R4(a) .

EXHIBIT R4(b) : TRUE COPY OF THE PETITION DATED 26.6.2015 FILED BY THE 4TH RESPONDENT BEFORE THE 1ST RESPONDENT.

EXHIBIT R4(b) (i) : ENGLISH TRANSLATION OF EXT.R4(b) .

EXHIBIT R4(c) : TRUE COPY OF THE RECEIPT DATED 26.6.2015 ISSUED BY THE 1ST RESPONDENT.

//TRUE COPY//

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

W.P.(C) No.18178 of 2015

Dated this the 15th day of October 2015

J U D G M E N T

Shaffique, J.

This writ petition is filed by the petitioner, who is conducting a business under the name and style, 'M/s.Surabhi Supreme Marbles & Granites (P) Ltd.' at Marathakkara, Puthur in Thrissur District, seeking for police protection. It is inter alia stated that the petitioner has got permanent workers for carrying out the work including loading and unloading work and such other activities. The said work is obstructed by the 4th respondent and their men. The petitioner also contended that they have got registered workers having identity cards as per Rule 26A of the Kerala Head Load Workers' Act and Rules framed thereunder and the said identity cards are produced herein as Exts.P1 to P1(d).

2. Counter affidavit has been filed by the 4th respondent inter alia stating that the petitioner is not a person, who is actually engaged in the business and therefore, he has no locus standi to seek any relief.

3. Reply affidavit has been filed by the petitioner. Additional 5th respondent was impleaded in the case. It is stated

that the petitioner is a franchisee of M/s.Surabhi Supreme Marbles & Granites (P) Ltd. and in terms of the agreement entered into between the petitioner and the 5th respondent, the petitioner is carrying out the work in the premises, including loading and unloading work.

4. When this matter came up before us on the last occasion, we have asked the learned Government Pleader to obtain instructions with regard to the area in question and as to whether the area is covered by the notification issued under the Kerala Head Load Workers Act and Rules framed thereunder.

5. Today, the learned Government Pleader on instructions would submit that though the scheme has been notified, so far the same has not been implemented in the area.

6. The facts being so, we do not think that the 4th respondent or their men can have any right to demand loading and unloading work in the business premises of the petitioner. That apart, the petitioner has his own permanent workers having registered identity cards under Rule 26A of the Kerala Head Load Workers Rules.

7. Under such circumstances, we are of the view that if there is any obstruction from the side of 4th respondent or their

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-: 3 :-

men, the police shall render necessary protection and ensure that no such obstruction is created by the 4th respondent.

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

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

Jvt/17.10.2015