

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 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

WP(C).No. 19016 of 2015 (B)

PETITIONER(S):

- 1. FR.GEORGE VADAKKETHOTTIL, MANAGER,
GREENVALLY ESTATE, KATHRAPPALLY KARA,
KARUKACHAL VILLAGE, CHANGANASSERY TALUK,
KOTTAYAM DISTRICT.**
- 2. ALEX MATHEW, S/O. MATHEW,
ALAPPATTU HOUSE, NARANAM MOOZHAY,
ATHIKKAYAM, RANNI.**

**BY ADVS.SRI.T.K.BIJU (MANJINIKARA),
SMT ANNIE M.ABRAHAM.**

RESPONDENT(S):

- 1. SUB INSPECTOR OF POLICE,
KARUKACHAL POLICE STATION,
KARUKACHAL, CHANGANASSERY,
KOTTAYAM DISTRICT-686 024.**
- 2. ASSISTANT LABOUR OFFICER,
CHANGANASSERY, KOTTAYAM DISTRICT-686 024.**
- 3. UNNIKRISHNAN,
SECRETARY, B.M.S, KARUKACHAL UNIT,
KUTHRAPPALLY, MOBILE NO. 9495176587. PIN-686 010.**
- 4. BABY,
SECRETARY, CITU, KARUKACHAL UNIT,
KUTHRAPPALLY, MOBILE NO. - 9961849531, PIN-686 010.**
- 5. BENNY,
SECRETARY, INTUC (1), KARUKACHAL UNIT,
KUTHRAPPALLY, MOBILE NO. 9846270891, PIN-686 010.**
- 6. MATHEW,
SECRETARY, KTUC, KARUKACHAL UNIT,
KUTHRAPPALLY, MOBILE NO. 9846467367, PIN-686 010.**

**R1 & R2 BY SR. GOVT. PLEADER SRI.C.R. SYAMKUMAR.
R3 TO R6 BY ADV. SRI.GEORGE ZACHARIAH ERUTHICKEL.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1- A TRUE COPY FO THE JOINT STATEMENT ISSUED BY TRADE UNIONS AND MANagements AS PER DECISION DATED 11.08.2014 CONVENED BY DLO, KOTTAYAM.
- P1(A) - ENGLISH TRANSLATION OF EXT. P1.
- P2 - A TRUE COPY OF THE COMPLAINT FIELD BY THE 2ND PETITIONER BEFORE THE 2ND RESPONDENT DATED 23.05.2015.
- P2(A) - ENGLISH TRANSLATION OF EXT. P2.
- P3 - A TRUE COPY OF THE COMPLAINT SUBMITTED BY THE 2ND PETITIONER BEFORE THE 1ST RESPONDENT DATED 18.06.2015.
- P3(A) - ENGLISH TRANSLATION OF EXT. P3.
- P4 - A TRUE COPY OF THE RECEIPT ISSUED BY THE 1ST RESPONDENT EVIDENCING ACCEPTANCE OF EXT. P3.
- P4(A) - ENGLISH TRANSLATION OF EXT. P4.

RESPONDENT'S EXHIBITS:-

- EXT.R5A COPY OF THE JOINT STATEMENT MADE BY UNITS OF TRDE UNIONS, WHICH ARE REPRESENTED THROUGH RESPONDENT NO.3 TO 6, ISSUED ON 08/08/2014, REGARDING THE RATES OF LOADING WORK IN THE LOCALITY.
- EXT.R5B THE TRUE ENGLISH TRANSLATION OF EXT.R5A.

//TRUE COPY//

P.A. TO JUDGE

rs.

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

W.P.C.No.19016 of 2015

Dated this the 15th day of July 2015

J U D G M E N T

Shaffique, J

Petitioners have approached this Court seeking for police protection in the matter relating to cutting and removal of rubber trees in his property having an extent of 13.68 hectares in Survey No.270/1 and 2 of Karukachal Villge in Chenganassery Taluk. Petitioners submit that respondents 3 to 6 are obstructing the cutting and removal of rubber trees by demanding huge wages, which is not payable. They relied upon Ext.P1 and contend that the demand made by the members of the respondent Unions are much higher than the rates applicable in the locality. It is the contention of the petitioners that the members of respondents 3 to 6 are neither agreeable to carry out the work, nor they are permitting the petitioners to do the work by engaging their own workers. Though complaint has been filed before the police seeking police protection, so far no action has been taken in the matter and therefore the petitioners have approached this Court.

2. Counter affidavit has been filed by respondents 3 to 6. According to them, Ext.P1 wage particulars has no application to the said locality. If there is any dispute regarding the wages payable, the matter has to be agitated before the competent authority. According to them, they are workers in the area who are ready and willing to undertake the cutting and removal of timber, but the petitioners are not permitting them to do the work. Further, it is submitted that they have not obstructed the petitioners in any manner and there is no law and order situation.

3. Having regard to the aforesaid factual situation, we find that the area is not a scheme covered area. Further, as far as the cutting and removal of rubber trees are concerned, respondents 3 to 6 have no legal right to demand that they alone should be employed. Therefore, petitioners are entitled to engage their own workmen to carry out the said activity. If respondents 3 to 6 or their members obstruct the said work being carried out, 1st respondent shall ensure that law and order is maintained.

Under such circumstances, we are of the view that if any obstruction is being caused by respondents 3 to 6 or their men in

the matter relating to cutting and removal of timber, 1st respondent shall provide adequate protection to the petitioners and shall ensure maintenance of law and order. However, this judgment shall not preclude respondents 3 to 6 from approaching the 2nd respondent for appropriate orders regarding fixation of wages or any other matter relating to the same.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

