

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WP(C).No. 19333 of 2014 (N)

PETITIONERS :

1. C. VASANTHI, AGED 75 YEARS
D/O.PARAMESWARAN AND CHELLAMMA
RESIDING AT HOUSE NO.N.S.P.46, KALPANA, N.S.P.NAGAR
KESAVADASAPURAM, THIRUVANANTHAPURAM - 695 004.
2. P.SURENDRAN, AGED 65 YEARS
OWN AFFAIRS, S/O.PARAMESWARAN AND CHELLAMMA
RESIDING AT HOUSE NO.N.S.P.46, KALPANA, N.S.P.NAGAR
KESAVADASAPURAM, THIRUVANANTHAPURAM - 695 004.

BY ADVS.SRI.N.SUBRAMANIAM
SRI.M.S.NARAYANAN
SRI.P.T.GIRIJAN
SMT.USHA NARAYANAN

RESPONDENTS :

1. ASSISTANT COMMISSIONER OF POLICE, CANTONMENT,
STATUE JUNCTION, THIRUVANANTHAPURAM - 695 001.
2. THE CIRCLE INSPECTOR OF POLICE
PERURKADA, THIRUVANANTHAPURAM - 695 005.
3. RAJAMMA, AGED 70 YEARS, D/O.THANKAMMA,
OWN AFFAIRS, "CHAMPANKOT VEEDU", NO.54 N.S.P.NAGAR,
KESAVADASAPURAM, THIRUVANANTHAPURAM - 695 004.
4. VASANTHAKUMARI, AGED 60 YEARS, D/O.THANKAMMA,
OWN AFFAIRS, "CHAMPANKOT VEEDU", NO.54 N.S.P.NAGAR,
KESAVADASAPURAM, THIRUVANANTHAPURAM - 695 004.

R1 & R2 BY STATE ATTORNEY, SRI.P. VIJAYARAGHAVAN
R3 & R4 BY ADV. SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.
SRI.V.SANJEEV
SRI.GOVIND PADMANAABHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :

- P1- TRUE COPY OF THE PURCHASE CERTIFICATE DATED 8.12.2011
OF LAND TRIBUNAL IN S.M.P. 63/2011.
- P2- TRUE COPY OF TAX RECEIPT DT. 16.10.2012.
- P3- TRUE COPY OF TAX RECEIPT DT. 06.11.2013.
- P4- TRUE COPY OF THE ORDER DATED 19.09.1998 OF THE LAND TRIBUNAL,
TRIVANDRUM.
- P5- TRUE COPY OF THE JUDGMENT DATED 6.7.2000 IN O.S.NO.940/1976.
- P6- TRUE COPY OF THE JUDGMENT DATED 25.11.2005 A.S.NO.60/2004.
- P7- TRUE COPY OF THE LOCATION SKETCH DATED 25.11.2013 ISSUED
BY THE TALUK SURVEYOR.
- P8- TRUE COPY OF THE PETITION DATED 17.12.2013 FILED BEFORE THE
PERURKADA POLICE STATION.
- P8(A)- TRUE COPY OF THE ACKNOWLEDGEMENT DATED 17.12.2013 ISSUED
BY THE PERURKADA POLICE STATION.
- P9- TRUE COPY OF THE REPRESENTATION DATED 24.04.2014 FILED BEFORE
THE 4TH RESPONDENT.
- P10- TRUE COPY OF THE REPRESENTATION DATED 16.05.2014 FILED BEFORE
RESPONDENT 3 & 4.
- P11- TRUE COPY OF JUDGMENT IN A.A. No.55/2011 PASSED BY THE LAND
REFORMS APPELLATE AUTHORITY, ALAPUZHA DATED 24.04.2015.

RESPONDENTS' EXHIBITS :

- EXT.R3(A) : TRUE COPY OF THE MEMORANDUM OF APPEAL IN A.A. No.55
OF 2011 PENDING BEFORE THE APPELLATE AUTHORITY.

/TRUE COPY/
PA TO JUDGE

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

W.P.(C) No. 19333 OF 2014

Dated this the 16th day of July, 2015

JUDGMENT

Shaffique, J.

Petitioners have approached this Court seeking for police protection for constructing a boundary wall. It is *inter alia* contended that the petitioners are in possession and ownership of 20 cents of property situated in Sy.No.1542/3 of Kowdiyar Village, Thiruvananthapuram. The contention of the petitioners is that respondents 3 and 4 and their men have prevented the petitioners from constructing the boundary wall. It is also contended that there is no boundary dispute, as the claim made by respondents 3 and 4 had been finally adjudicated and decided by the appellate authority as per A.A. No.55 of 2011 dated 24.04.2015.

2. Learned counsel for the petitioners would submit that in so far as respondents 3 and 4, they have no right in the property and have no reason to obstruct the construction of the boundary wall. It is stated that the petitioners have filed

complaints before the police authorities seeking necessary police protection and since no action was taken in this regard, this Writ Petition has been filed.

3. Counter affidavit has been filed by respondents 3 and 4 *inter alia* stating that there is no well defined boundaries around the property in question and the same is lying contiguously. There is dispute regarding the right and ownership, that apart, it is contended that the boundary in respect of 20 cents of the property has to be fixed which has not been done so far. According to them, there is a dispute and therefore the petitioners have no right to construct the boundary wall according to their wishes.

4. Learned Government Pleader would submit that on the basis of a complaint, police have enquired the matter. The petitioners were advised to get assistance of Taluk Surveyor for fixing the boundary. Ext.P8 has been prepared by the Taluk Surveyor, which has been disputed by respondents 3 and 4. Ext.P8 is a rough sketch prepared by the Taluk Surveyor. It is an unauthenticated document.

5. We are of the view that the direction as sought for by the petitioner cannot be granted for the following reasons:

- 1) There is no building permit for constructing the compound wall and
- 2) There is dispute between the petitioners and respondents 3 and 4 with regard to the boundary.

Unless the boundary dispute is resolved, police cannot interfere in the matter and grant police protection. Under such circumstances, we do not think that this Court can direct the police to render police protection. Accordingly, this writ petition is dismissed. It is made clear that it shall be open for the petitioners to get the boundary fixed in accordance with law and thereafter approach the Police for necessary police protection.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**