

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 1937

WP(C).No. 20161 of 2015 (U)

PETITIONER(S):

- 1. PHILIP MATHEW, SON OF C.P. MATHEW,
AGED 50 YEARS, SRAMPICAL HOUSE,
KALLOOPPAR P.O, THIRUVALLA,
PATHANAMTHITTA -689 583.**
- 2. RACHEL PHILIP, WIFE OF PHILIP MATHEW,
AGED 45 YEARS, SRAMPICAL HOUSE,
KALLOOPPAR P.O, THIRUVALLA,
PATHANAMTHITTA -689 583.**

BY ADV. SRI.LEO GEORGE.

RESPONDENT(S):

- 1. THE DISTRICT SUPERINTENDENT OF POLICE,
PATHANAMTHITTA- 689 645.**
- 2. THE CIRCLE INSPECTOR OF POLICE,
RANNI -689 672.**
- 3. THE SUB INSPECTOR OF POLICE,
RANNI -689 672.**
- 4. THE REVENUE DIVISIONAL OFFICER,
THIRUVALLA- 689 111.**
- 5. THE FOREST RANGE OFFICER,
VADASSERIKKARA.**
- 6. SANTHAMMA VARGHESE,
SANGARAMANGALATH VEEDU,
CHERUKULANJI P.O., RANNI -689 673.**

WP(C).No. 20161 of 2015 (U)

**7. JOSEPH IDICULA ALIAS JOSE,
SANGARAMANGALATH VEEDU,
CHERUKULANJI P.O, RANNI -689 673.**

**8. T.I. JOSEPH ALIAS BABU,
THANNICKAL VEEDU, CHERUKULANJI P.O,
RANNI -689 673.**

**9. SULAIMAN,
PEEDIKAYIL VEEDU, AALAPRA P.O, MANIMALA,
KANJIRAPPALLY- 686 543.**

R1 TO R5 BY SR. GOVT. PLEADER SRI.C.R. SYAMKUMAR.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1 TRUE COPY OF THE BASIC TAX RECEIPT ISSUED BY THE VILLAGE OFFICER, VADASSERIKKARA VILLAGE TO THE FIRST PETITIONER DATED 28-05-1998 ALONG WITH TRUE ENGLISH TRANSLATION.
- EXHIBIT P2 TRUE COPY OF THE BASIC TAX RECEIPT ISSUED BY THE VILLAGE OFFICER, VADASSERIKKARA VILLAGE TO THE FIRST PETITIONER DATED 15-06-2001 ALONG WITH TRUE ENGLISH TRANSLATION.
- EXHIBIT P3 TRUE COPY OF THE BASIC TAX RECEIPT ISSUED BY THE VILLAGE OFFICER, VADASSERIKKARA VILLAGE TO THE SECOND PETITIONER DATED 15-06-2001 ALONG WITH TRUE ENGLISH TRANSLATION.
- EXHIBIT P4 TRUE COPY OF THE JUDGMENT IN WP(C).NO.23126/2014 DATED 14-10-2014.
- EXHIBIT P5 TRUE COPY OF THE COMPLAINT SUBMITTED BY THE FIRST PETITIONER BEFORE THE SECOND RESPONDENT DATED 20-06-2015 ALONG WITH TRUE ENGLISH TRANSLATION.
- EXHIBIT P6 TRUE COPY OF THE COMPLAINT SUBMITTED BY THE FIRST PETITIONER BEFORE THE FIRST RESPONDENT DATED 20-06-2015 ALONG WITH TRUE ENGLISH TRANSLATION.
- EXHIBIT P7 TRUE COPY OF THE COMPLAINT SUBMITTED BY THE FIRST PETITIONER TO THE THIRD RESPONDENT DATED 22-06-2015 ALONG WITH TRUE ENGLISH TRANSLATION.
- EXHIBIT P8 TRUE COPY OF THE COMPLAINT SUBMITTED BY THE FIRST PETITIONER BEFORE THE VILLAGE OFFICER, VADASSERIKARA DATED 22-06-2015 ALONG WITH TRUE ENGLISH TRANSLATION.
- EXHIBIT P9 TRUE COPY OF THE COMPLAINT SUBMITTED BY THE FIRST PETITIONER BEFORE THE FOURTH RESPONDENT DATED 22-06-2015 ALONG WITH TRUE ENGLISH TRANSLATION.
- EXHIBIT P10 TRUE COPY OF THE ORDER ISSUED BY THE FORTH RESPONDENT DATED 24-06-2015 ALONG WITH TRUE ENGLISH TRANSLATION.

WP(C).No. 20161 of 2015 (U)

**EXHIBIT P11 TRUE COPY OF THE STOP MEMO ISSUED BY THE VILLAGE OFFICER,
VADASSERIKKARA DATED 22-06-2015 ALONG WITH TRUE ENGLISH
TRANSLATION.**

**EXHIBIT P12 TRUE COPY OF THE CMP NO.5324 OF 2015 ON THE FILES OF
JUDICIAL FIRST CLASS MAGISTRATE COURT, RANNI DATED NIL
ALONG WITH TRUE ENGLISH TRANSLATION.**

**EXHIBIT P13 TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER
BEFORE THE FIRST RESPONDENT DATED 01-07-2015.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

ASHOK BHUSHAN, CJ

&

A.M. SHAFFIQUE, J.

W.P (C) No.20161 of 2015

Dated this, the 6th day of July, 2015

J U D G M E N T

Shaffique, J

Petitioners have approached this Court seeking police protection inter alia contending that the timber kept in the property having an extent of 9.62 Ares of property in Sy.No.170/1/1/416 of Vadasserikkara village is being taken away by private respondents 6 to 9 and their men. It is submitted that the property belongs to the petitioners and the trees also belong to the petitioners and there is no reason why the private respondents should be permitted to take away the said timber. Petitioners had given a complaint to the police for necessary police protection and since no action has been taken in the matter, this writ petition has been filed seeking the following reliefs:

“i) issue a writ of mandamus or any other appropriate writ, direction or order commanding respondents 1 to 3 to afford sufficient and meaningful police protection to the life and property of the

petitioners from the highhanded activities and mischief committed by respondents 6 to 9, and to prevent further removal of the trees cut from the property of the petitioners and placed Ranni-Karipanamkuzhi-Benglamkadavu Road by respondents 6 to 9 or any other person under them and to provide sufficient and meaningful police protection to place the trees referred to above at some safe place in the custody of the petitioners or in the custody of the fifth respondent.

OR IN THE ALTERNATIVE

ii) direct the fifth respondent to take custody of the 'teak' trees and 'anjily' tree cut down from the property of the petitioners and lying at the side of Ranni-Karipanamkuzhi-Benglamkadavu Road and detain the same until the ownership of the said trees are determined by a competent civil court."

2. The learned Government Pleader, on instructions, would submit that Ext.P10 order issued by the Sub Divisional Magistrate on 24/06/2015 has been finalised on 01/07/2015. Thereafter, the petitioner had preferred an appeal against the said order on 03/07/2015. The District Collector had issued an order of status quo which is still pending.

3. The learned counsel for the petitioners also submits that a civil suit has been filed against the private respondents in the matter which is also pending.

4. Having regard to the fact that this issue is pending before the District Collector as well as before the Civil court, it apparently relates to a right to enjoyment of property and the timber standing thereon. This issue cannot be adjudicated by this Court in a police protection matter nor can the police resolve this issue. Under such circumstances, we do not want to interfere in the matter and issue any direction, as prayed for. It is always open for the petitioner to approach the Civil court or the District Collector for appropriate orders.

With the above observation, this writ petition is dismissed.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

