

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 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

WP(C) .No. 20191 of 2015 (Y)

PETITIONER(S) :-

SREE PANIMOOLA DEVI TEMPLE
ANDOORKONAM, POTHENCODE, THIRUVANANTHAPURAM DISTRICT
REPRESENTED BY ITS SECRETARY, SRI.K.DAMODARAN NAIR
AGED 48 YEARS, S/O.KARUNAKARAN NAIR.

BY ADVS.SRI.M.RAMESH CHANDER (SR.)
SRI.V.K.SATHYANATHAN
SRI.ANEESH JOSEPH
ADV.DENNIS VARGHESE

RESPONDENT(S) :-

1. THE SUPERINTENDENT OF POLICE (RURAL) ,
THIRUVANANTHAPURAM DISTRICT
THIRUVANANTHAPURAM-695 001.
2. THE DEPUTY SUPERINTENDENT OF POLICE
ATTINGAL, THIRUVANANTHAPURAM-695 101.
3. THE CIRCLE INSPECTOR OF POLICE
KAZHAKKOOTTAM, THIRUVANANTHAPURAM-695 582
4. THE SUB INSPECTOR OF POLICE, POTHENCODE POLICE STATION
UNDER KAZHAKKOOTTAM CIRCLE, THIRUVANANTHAPURAM-695 584.
5. K.VIJAYAKUMARAN NAIR,
SECRETARY, THE KERALA KSHETRA SAMRAKSHANA SAMITHY
PANIMOOLA BRANCH, RESIDING AT MANICHEPPU, MOOZHIBHAGOM
POTHENCODE P.O, THIRUVANANTHAPURAM, PIN-695 584.
6. RAVINDRAN NAIR, S/O.AYYAPPAN PILLAI, AMBADI, PANIMOOLA
ANDOORKONAM P.O, POTHENCODE, THIRUVANANTHAPURAM
PIN-695 584.
7. PRABHAKARAN NAIR,
S/O.JANARDHANAN PILLAI, SANTHI NIVAS, KAROOR
POTHENCODE P.O, THIRUVANANTHAPURAM, PIN-695 584.

8. GOPIMOHANAN NAIR,
S/O.CHELLAPPAN PILLAI, JANAKI MANDIRAM, MOOZHIBHAGOM
POTHENCODE P.O, THIRUVANANTHAPURAM, PIN-695 584
 9. R.SIVANKUTTY NAIR,
S/O.RAGHAVAN PILLAI, LEKSHMI NILAYAM, PANIMOOLA
ANDOORKONAM P.O, THIRUVANANTHAPURAM, PIN-695 584.
 10. C.VELAYUDHAN NAIR,
S/O.CHELLAPPAN PILLAI, IDAVILAKAM VEEDU, PANIMOOLA
ANDOORKONAM P.O, THIRUVANANTHAPURAM, PIN-695 584.
 11. P.BHASKARA PILLAI
S/O.PARAMESWARAN PILLAI, ARCHANA, KALLUVILA
POTHENCODE P.O, THIRUVANANTHAPURAM, PIN-695 584.
 12. M.AYYAPPAN NAIR,
S/O.MADHAVAN PILLAI, THENGUVILA VEEDU, MARUPPANCODE
ANDOORKONAM P.O, THIRUVANANTHAPURAM, PIN-695 584.
 - ADDL.13.SUMATHY AMMA, AGED 84, D/O.PARUKUTTY AMMA,
KALAVARTHALA VEEDU, UTHIYARAMOOLA MURI,
KATTAYIKONAM P.O., THIRUVANANTHAPURAM - 695 584.
 - ADDL.14.SARASAMMA, AGED 89, D/O.CHELLAMMA,
POONARTHALA VEEDU, UTHIYARAMOOLA MURI,
KATTAYIKONAM P.O., THIRUVANANTHAPURAM - 695 584.
 - ADDL.15.RADHAMONI, AGED 53, D/O.VANAJAKSHI AMMA,
PRIYA BHAWAN, KALAVARTHALA, UTHIYARAMOOLA MURI,
KOTTAYIKONAM P.O., THIRUVANANTHAPURAM - 695 584.
 - ADDL.16.OMANA AMMA, AGED 56, D/O.VANAJAKSHI AMMA,
BABU NIVAS, UTHIYARAMOOLA MURI,
KATTAYIKONAM P.O., THIRUVANANTHAPURAM - 695 584.
 - ADDL.17.MADHAVI AMMA, AGED 78, D/O.PARUKUTTY AMMA
SUBHA VIHAR, KAROOR, POTHENCODE P.O.,
THIRUVANANTHAPURAM - 695 584.
- ADDL.RESPONDENTS 13 TO 17 ARE IMPEADED AS PER ORDER DATED
10.8.2015 IN I.A.No.11261/2015.

R5-R12 BY ADV. SRI.G.S.REGHUNATH
SRI.A.S.SHAMMY RAJ
ADDL-R13-R17 BY ADV. SRI.RAHUL VENUGOPAL
BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :-

EXT.P1 : TRUE COPY OF THE ORDER OF HON'BLE HIGH COURT OF KERALA DATED 27-11-2000 IN CMP NO.6231/2000 IN AS.NO.627/2000.

EXT.P2 : TRUE COPY OF THE PROCEEDINGS OF THE 11TH RESPONDENT DATED 15-8-2012 REMOVING THE 9TH RESPONDENT FROM THE TEMPLE ADMINISTRATION.

EXT.P3 : TRUE COPY OF THE NEWS PAPER ITEM APPEARED IN MALAYALA MANORAMA DAILY ON 3-9-2012 REGARDING REMOVAL OF THE 9TH RESPONDENT FROM THE TEMPLE ADMINISTRATION ALONG WITH ENGLISH TRANSLATION.

EXT.P4 : TRUE COPY OF THE JUDGMENT OF THE HON'BLE APEX COURT, DATED 25-11-2014 IN CIVIL APPEAL NO.10556/2014.

EXT.P5 : TRUE COPY OF THE JUDGMENT OF THE HON'BLE HIGH COURT OF KERALA, DATED 14-1-2015 IN WPC.NO.33609/2014.

EXT.P6 : TRUE COPY OF THE ORDERS OF THE DISTRICT MAGISTRATE, THIRUVANANTHAPURAM DATED 26-12-2001 IN MC.NO.35/2001.

EXT.P7 : PHOTO COPY OF THE PAPER PUBLICATION DATED 27-12-2001 APPEARED IN KERALA KAUMUDI DAILY, REGARDING THE PROCLAMATION OF PROHIBITORY ORDERS PARTICULARLY AGAINST THE 5TH RESPONDENT SAMITHY ALONG WITH ENGLISH TRANSLATION.

EXT.P8 : TRUE COPY OF ORDER OF HON'BLE HIGH COURT DATED 7-11-2001 IN CMP.NO.6138/2001 IN WHICH THE EARLIER ORDERS DATED 9-3-2001 AND 31-7-2001 IN CMP.NO.1473/2001 ARE EXTRACTED.

EXT.P9 : TRUE COPY OF ORDER OF HON'BLE HIGH COURT DATED 14-1-2002 IN CMP.NO.327/2002.

EXT.P10 : TRUE COPY OF REPRESENTATION BY THE PETITIONER DATED 1-1-2015 TO THE DIRECTOR GENERAL OF POLICE ALONG WITH ENGLISH TRANSLATION.

EXT.P11 : TRUE COPY OF COMPLAINT BY THE PETITIONER DATED 22-1-2015 TO THE 1ST RESPONDENT.

EXT.P12 : TRUE COPY OF COMPLAINT BY THE PETITIONER DATED 28-1-2015 TO THE 4TH RESPONDENT.

EXT.P13 : TRUE COPY OF FIR NO.62 DATED 28-1-2015 AGAINST RESPONDENTS 7, 8, 10, 12 AND 13 ALONG WITH ENGLISH TRANSLATION.

EXT.P14 : TRUE COPY OF REPRESENTATION BY THE PETITIONER DATED 28-1-2015 TO THE HON'BLE MINISTER FOR HOME AND VIGILANCE.

EXT.P15 : TRUE COPY OF FAKE NOTICE DATED NIL AND CIRCULATED BY THE RESPONDENTS 5 TO 12 WITH THE NAMES OF RESPONDENT 6, 9 AND 11 AS THE OFFICE BEARERS OF THE TEMPLE ALONG WITH ENGLISH TRANSLATION.

EXT.P16 : TRUE COPY OF COMPLAINT BY THE PETITIONER DATED 2-2-2015 TO THE 4TH RESPONDENT.

EXT.P17 : TRUE COPY OF REPRESENTATION BY THE PETITIONER DATED 12-12-2014 TO THE BANK AUTHORITIES TO DISHONOR ANY REQUEST FROM ANY QUARTERS FOR WITHDRAWAL OF AMOUNTS ALONG WITH ENGLISH TRANSLATION.

EXT.P18 : TRUE COPY OF INJUNCTION ORDER DATED 26-2-2015 IN IA.NO.477/2015 IN OS.NO.14/2015 ON THE FILE OF SUB COURT, ATTINGAL.

EXT.P19 : TRUE COPY OF PAPER PUBLICATION MADE BY THE 11TH RESPONDENT IN MATHRUBHOOMI DAILY DATED 19-5-2015 PROCLAIMING THE REGISTRATION OF A TRUST FOR THE MANAGEMENT AND ADMINISTRATION OF THE PETITIONER ALONG WITH ENGLISH TRANSLATION.

EXT.P20 : TRUE COPY OF THE COMPLAINT BY KANAKKU THEVAN PILLAI KALAVARTHALA KUDUMBA SAMITHY DATED 8-5-2015 TO THE 1ST RESPONDENT ALONG WITH ENGLISH TRANSLATION.

EXT.P21 : TRUE COPY OF THE COMPLAINT DATED 16-6-2015 BY THE PETITIONER BEFORE THE DISTRICT MAGISTRATE ALONG WITH COVERING LETTER.

EXT.P22 : TRUE COPY OF THE COMPLAINT DATED 17-6-2015 BY THE PETITIONER TO THE 3RD RESPONDENT.

EXT.P23 : COPY OF THE E-MAIL DATED 17-6-2015 TO THE 1ST RESPONDENT.

EXT.P24 : TRUE COPY OF THE REPRESENTATION BY THE 5TH RESPONDENT IN PERSON DATED 26.12.2000 TO THE THEN PRESIDENT OF THE TEMPLE COMMITTEE AUTHORITATIVELY ASKING HIM TO CONVERT THE TEMPLE IN TO A PUBLIC TEMPLE ALONG WITH ENGLISH TRANSLATION.

EXT.P25 : PRINTED NOTICE DATED 15.2.2001 AND CIRCULATED AMONG THE PUBLIC BY THE 5TH RESPONDENT BEARING ITS SEAL EVIDENCING THE REG.No.AND THE BRANCH No. ALONG WITH ITS ENGLISH TRANSLATION.

EXT.P26 : TRUE COPY OF THE REPLY AFFIDAVIT FILED BY THE 9TH RESPONDENT DATED 5.1.2015 IN WP(C)No.33609/2014, ADMITTING EXT.P2 AND EXT.P3 IN THE ABOVE WRIT PETITION.

EXT.P27 : TRUE COPY OF THE MINUTES OF THE GENERAL BODY MEETING OF THE SEVEN FAMILIES HELD ON 29.7.2012 ELECTING THE PETITIONER AND TWO OTHERS AS OFFICE BEARERS OF THE TEMPLE ALONG WITH ENGLISH TRANSLATION.

EXT.P28 : TRUE COPY OFD THE MINUTES OF THE GENERAL BODY MEETING OF THE SEVEN FAMILIES HELD ON 30.6.2013 ELECTING NEW EIGHT MORE OFFICE BEARERS OF THE TEMPLE ALONG WITH ENGLISH TRANSLATION.

EXT.P29 : APER PUBLICATION IN KERALA KAUMUDI DATED 8.12.2014 BY THE PETITIONER CALLING UPON THE MEMBERS OFD THE SEVEN FAMILIES TO ELECT A NEW MANAGEMENT COMMITTEE BY THEM.

EXT.P30 : PAPER PUBLICATION IN KERALA KAUMUDI DATED 23.12.2014 BY THE PETITIONER CALLING UPON THE MEMBERS OF THE SEVEN FAMILIES AGAIN TO ELECT A NEW MANAGEMENT COMMITTEE BY THEM FOR THE TEMPLE ADMINISTRATION ALONG WITH ENGLISH TRANSLATION.

EXT.P31 : ENGLISH TRANSLATION OF THE WRITTEN STATEMENT FILED BY ADDITIONAL DEFENDANTS 8 TO 14 IN OS.No.108/1991 MADE BY THEMSELVES WHO ARE RESPONDENTS 6 TO 12 HEREIN.

EXT.P32 : DETAILS OF TRANSACTION IN RESPECT OF THE AGRICULTURAL LOAN AVAILED BY THE 6TH RESPONDENT, BY PLACING THE GOLDEN POOJA VESSEL OF THE TEMPLE AS SURETY, WHICH WAS RETRIEVED BY THE PETITIONER BY SPENDING THE TEMPLE FUNDS.

EXT.P33 : PAPER PUBLICATION BY KALAVARTHALA FAMILY IN MATHRUBHOOMI DAILY DATED 7.12.2015 PUBLISHING THE SCHEDULE OF ITS FAMILY MEETING TO DCIDE ABOUT THE TEMPLE AFFAIRS.

EXT.P34 : PHOTO COPY OF THE CERTIFICATE OF REGISTRATION DATED 4.4.2015 IN RESPECT OF IDATHARA FAMILY SAMITHY.

EXT.P35 : PHOTO COPY OF THE CERTIFICATE OF REGISTRATION DATED 17.4.2015 IN RESPECT OF KODUPPOORU FAMILY SAMITHY.

EXT.P36 : PHOTOSTAT COPY OF COUNTER AFFIDAVIT FILED BY THE PRESIDENT OF THE TEMPLE MANAGEMENT COMMITTEE IN WP(C) No.33609/14 BEING THE 2ND RESPONDENT THEREIN.

EXT.P37 : TRUE COPY OF LETTER DATED 9.7.2015 FROM THE PETITIONER TO THE PRESIDENT OF THE TEMPLE MANAGEMENT COMMITTEE ALONG WITH ENGLISH TRANSLATION.

EXT.P38 : TRUE COPY OF PAPER PUBLICATION IN MATHRUBHOOMI DAILY DATED 9.5.2015, GIVEN BY THE PRESIDENT OF THE TEMPLE MANAGEMENT COMMITTEE CONVENING GENERAL BODY MEETING OF THE SEVEN FAMILIES.

EXT.P39 : PAPER PUBLICATION IN KERALA KAUMUDI DATED 20.5.2015 GIVEN BY THE PETITIONER WHEN EXT.P38 WAS CHALLENGED BY THE 11TH RESPONDENT WITH EXT.P19.

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RESPONDENT(S) ' EXHIBITS :-

EXT.R6(a) : TRUE COPY OF THE DECREE IN CIVIL APPEAL No.10556/14
ON THE FILE OF THE HON'BLE SUPREME COURT.

EXT.R6(b) : TRUE COPY OF THE LETTER CIRCULATED BY
SRI.RAMACHANDRAN NAIR SENT A LETTER TO SRI.K.DAMODARAN NAIR AND
SRI.BHUVANENDRAN NAIR DATAED 20.6.2015 ALONG WITH ITS TRUE
ENGLISH TRANSLATION.

EXT.R6(c) : TRUE COPY OF THE LETTER DATED 7.7.2015 RECEIVED BY
ONE OF THE RESPONDENTS, ALONG WITH ITS TRUE ENGLISH TRANSLATION.

EXT.R6(d) : TRUE COPY OF THE LETTER DATED 9.7.2015 SENT BY
SRI.DAMODARAN NAIR TO THE OFFICE ASSISTANT/CASHIER OF THE TEMPLE
ALONG WITH ITS TRUE ENGLISH TRANSLATION.

EXT.R6(e) : TRUE COPY OF THE PETITION INTERIM INJUNCTION
I.A.No.461/2015 IN O.S.No.110/2015 ON THE FILE OF THE MUNSIFF'S
COURT, ATTINGAL FILED BY PETITIONER ALONG WITH ITS TRUE ENGLISH
TRANSLATION.

EXT.R6(f) : TRUE COPY OF THE LETTER DATED 16.7.2015 SENT BY
SRI.RAMACHANDRAN NAIR TO SRI.DAMODARAN NAIR WHICH WAS CIRCULATED
AMONG THE MEMBERS, ALONG WITH ITS TRUE ENGLISH TRANSLATION.

EXT.R13(A) : TRUE COPY OF THE O.S.No.14/2015 BEFORE THE SUB COURT
ATTINGAL DATED 26.2.201.

EXT.R13(B) : TRUE COPY OF THE JUDGMENT DATED 29.7.2000 IN
O.S.No.108/1991 BEFORE THE SUB COURT, ATTINGAL.

EXT.R13(C) : TRUE COPY OF THE DECREE DATED 28.2.2003 IN
OS.No.86/2000 BEFORE THE SUB COURT, ATTINGAL.

EXT.R13(D) : TRUE COPY OF THE I.A.No.1057/1994 IN OS.No.86/2000
BEFORE THE SUB COURT, ATTINGAL.

EXT.R13(E) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.R13(D) .

EXT.R13(F) : TRUE COPY OF THE RECEIVER PETITION, I.A.No.1383 OF
1999 FILED BY THE 11TH RESPONDENT.

EXT.R13(G) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.R13(F) .

EXT.R13(H) : TRUE COPY OF THE COUNTER AFFIDAVIT DATED 7.6.2004 IN
I.A.No.1264 OF 2004 IN C.M.P.No.1449 OF 2001 IN A.S.No.627 OF
2000 FILED BY THE 11TH RESPONDENT.

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EXT.R13(I) : TRUE COPY OF THE PAPER PUBLICATION IN MATHRUBHOOMI
DAILY DATED 7.12.2015 PUBLISHING THE SCHEDULE OF A GENERAL BODY
MEETING OF THE MEMBERS OF KALAVARTHALA FAMILY ON 25.12.2015.

EXT.R13(J) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.R13(I) .

EXT.R13(K) : TRUE COPY OF THE ADVOCATE NOTICE.

EXT.R13(L) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.R13(K) .

EXT.R13(M) : TRUE COPY OF THE CERTIFICATE OF REGISTRATION.

EXT.R13(N) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.R13(M) .

//TRUE COPY//

P.A. TO JUDGE

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

W.P.(C) No.20191 of 2015

Dated this the 10th day of August 2015

J U D G M E N T

Shaffique, J.

This writ petition has been filed inter alia seeking for the following relief :-

“Issue a writ of mandamus commanding respondents 1 to 4 to grant sufficient and adequate police protection to Sree Panimoola Devi Temple, Andoorkonam, Pothencode, for its proper administration and for the free ingress and egress of the committee members, devotees and to the employees and also direct respondents 1 to 4 to maintain law and order within the premises of the Sree Panimoola Devi Temple, Andoorkonam, Pothencode.”

The petitioner is a temple and it is stated that it belongs to seven ancient Joint Hindu Nair families. The character of the temple has been finally decided by the Apex Court as per judgment dated 25.11.2014 in Civil Appeal No.10556 of 2014. This writ petition has been filed by the Secretary of the Adhoc Committee inter alia contending that during the pendency of the lis, an Adhoc Committee has been constituted and they are managing the affairs of the temple. In the mean time, obstructions are being caused by

private respondents in the management of the temple, which has led to law and order situation. Though the petitioner had approached the police seeking for appropriate protection in the matter relating to conduct of the affairs of the temple as well as the festivals being conducted, no action has been taken in the matter and therefore, the petitioner has approached this Court.

2. It is submitted that earlier, the members of the family had approached this Court by filing W.P.(C) No.33609 of 2014, in which, police protection has been sought for and this Court, by judgment dated 14.1.2015, directed the parties to approach the civil court for change in management.

3. Having regard to the aforesaid factual situation, the petitioner submits that unless appropriate police protection is granted in the matter, the devotees and other persons coming to offer prayers, attend the rituals and festivals being conducted by the temple are substantially affected.

4. Counter affidavit has been filed by the 6th respondent on behalf of respondents 5 and 7 to 12 inter alia stating that the petitioner has no right to invoke the jurisdiction of this Court seeking for police protection. It is stated that the person who had filed the writ petition on behalf of the temple was only an office

bearer of the Adhoc Committee. It is contended that during the pendency of the lis, after the disposal of the case by the Supreme Court, the said Adhoc Committee has no relevance and only the said seven families and their members have right to administer the temple. It is further stated that members of the family had decided to form a trust and a trust deed has been prepared and they alone has the right to manage the affairs of the temple. It is also brought to the notice of this Court that two suits are pending before the civil court in the matter relating to aforesaid temple. O.S.No.115 of 2015 has been filed by the petitioner seeking for preparation of bye-law for the temple, in which, a counter claim has been filed by the respondents seeking for an injunction to restrain the petitioner from managing the affairs of the temple. Similarly, another suit, O.S.No.14 of 2015, has been filed by certain members of the family, which is also pending consideration.

5. Having regard to the aforesaid factual situation, the contention urged by the learned counsel for the respondents is that the petitioner has no right to seek for police protection and he has no right to manage the affairs of the temple.

6. Learned counsel appearing for additional respondents, who are impleaded in the case, submits that certain persons are creating obstruction inside the temple, who have no connection whatsoever with the seven families or the Adhoc Committee. In the light of the law and order situation occurring inside the temple premises, it is for the police to ensure maintenance of law and order.

7. Having heard the learned counsel for the petitioner and the learned counsel appearing for the respondents, we are of the view that the issue projected absolutely relates to management of the temple, which cannot be resolved by the police. The person, who has approached this Court is the Secretary of the Adhoc Committee, whose right to manage the temple itself is in question. Such issues can be resolved in the pending civil suit, especially, when all the parties are before the Civil Court. It is open for the parties to approach the civil court and get adjudication of their civil rights. The police cannot interfere in adjudication of civil rights, which is pending between the parties. The police can interfere only if there is any law and order situation and no such situation has arisen so far, as matter stands now. However, we only observe that if there is any offence committed or attempt to

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commit offence, it shall be open for the persons in connection with the temple to approach the police, who shall look into the matter and do the needful. However, we do not think that any direction as sought for can be granted. It shall be open for the petitioner or any other person interested in the matter to approach the civil court and obtain appropriate orders.

This writ petition is disposed of as above.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE