

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 20264 of 2015 (G)

PETITIONER:

**SREEKUMAR, S/O. SUNDARAMBAL,
ATHIRA, NEAR INDIAN OVEREAS BANK,
VARKALA MAITHANAM P.O., VARKALA,
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.B.S.SWATHY KUMAR
SRI.REMYA MURALI
SRI.VENKATESH GOPI
SMT.T.RESHMA**

RESPONDENT(S):

- 1. THE CIRCLE INSPECTOR OF POLICE,
VARKALA POLICE STATION, VARKALA,
THIRUVANANTHAPURAM, PIN - 695 141.**
- 2. VARKALA MUNICIPALITY, MUNICIPAL OFFICE,
VARKALA, THIRUVANANTHAPURAM,
REPRESENTED BY SECRETARY, PIN - 695 141.**
- 3. SAINUDDEEN, KUZHIVILA HOUSE,
VARKALA MAIDANAM P.O., VARKALA,
THIRUVANANTHAPURAM DISTRICT, PIN - 695 141.**
- 4. SHAMSUDDEEN, KUZHIVILA HOUSE,
VARKALA MAIDANAM P.O., VARKALA,
THIRUVANANTHAPURAM DISTRICT, PIN - 695 141.**

**R1 BY SENIOR GOVT. PLEADER SRI.C.R.SYAMKUMAR
R2 BY ADV. SRI.J.S.AJITH KUMAR,SC
R3 & R4 BY ADV. SRI.M.R.RAJESH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS :

- P1 - TRUE COPY OF THE NOTICE NO. PW2-8483/15 DT. 19.6.15 AND ENGLISH TRANSLATION.
- P2 - TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DT. 01.7.15 AND ENGLISH TRNASLATION.
- P3 - TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DT. 01.7.15 AND ENGLISH TRNASLATION.
- P4- TRUE OCPY OF THE PHOTOGRAPHS OF THE COMPOUND WALL AND THE DEMOLISHED PORTION OF THE SAME.

RESPONDENT(S)' EXHIBITS:

- EXT. R3(A) : A TRUE COPY OF THE CAVEAT FILED BY THE PETITIONER AND ANOTHER DATED 24.6.2015.
- EXT. R3(B) : A TRUE COPY OF THE INJUNCTION PETITION IN OS.NO.347/2015 OF VARKALA MUNSIFF'S COURT.
- EXT. R3(B) : A TRUE COPY OF THE INJUNCTION ORDER DATED 22.8.2015 IN IA.NO.2196/2015 INOS.NO.347/2015 OF MUNSIFF'S COURT, VARKALA.
- EXT. R3(C) : A TRUE COPY OF THE B SCHEDULE DESCRIPTION IN OS.NO.347/2015 OF MUNSIFF'S COURT, VARKALA.
- EXT. R3(D) : A TRUE COPY OF THE PETITION FOR EXTENSION IN O.S.NO.347/2015 MUNSIFF'S COURT, VARKALA.

//TRUE COPY//

P.S. TO JUDGE

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

W.P.(C) No. 20264 OF 2015

Dated this the 4th day of December, 2015

JUDGMENT

Shaffique, J.

This writ petition has been filed seeking police protection for the purpose of construction of compound wall which was demolished by the petitioner for which necessary protection had been obtained from the local authority.

2. It is stated that the existing compound wall has been demolished and now, when the petitioner attempted to reconstruct the compound wall obstruction was caused by respondents 3 and 4. According to the petitioner, there is an existing pathway and the attempt to re-construct the compound wall is without reducing the width.

3. Respondents 3 and 4 has filed a counter affidavit *inter alia* stating that an interim injunction order has been passed by the Civil Court in a suit filed by another person as O.S. No. 347 of 2015. Ext.R3(b) is the interim injunction order in which the counter petitioners and their men were restricted

from closing down the pathway or reducing its width or reconstructing the compound wall in the property encroaching into the pathway. It is stated that the said interim injunction is still in force and it is always open for the petitioner to approach the civil court and obtain appropriate orders.

4. Ext.P4 is the series of photographs produced by the the petitioner with reference to the pathway in question and it shows the compound wall before and after demolition.

5. According to the private respondents, the width of the pathway is 2 meters. Learned Government Pleader submits that the width of the existing pathway is hardly above 1.1 to 1.3 meters.

6. Be that as it may, since the request of the petitioner is only for construction of the compound wall, which was in existence earlier, it shall always be open for the petitioner to reconstruct the compound wall without disturbing the existing width of the pathway. The interim injunction order does not prohibit any such activity.

7. Under such circumstances respondent Nos.3 and 4 cannot physically prevent the petitioner from constructing the compound wall and if there is any such obstruction, it shall be the obligation of the 1st respondent to ensure that no such obstruction is caused by respondents 3 and 4.

8. Accordingly, we direct the 1st respondent to ensure maintenance of law and order and to see that no obstruction is caused by respondents 3 and 4 or their men in the matter relating to construction of compound wall without reducing the existing width of the pathway.

The Writ Petition is disposed of as above.

**Ashok Bhushan,
Chief Justice.**

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