

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 20540 of 2014 (N)

PETITIONER(S):

A. BALACHANDRAN, AGED 52 YEARS
S/O. LATE RAMAGUPTAN, RESIDING AT 'ACHAPPAATH'
MANNAMBATTA, KADAMPZAHIPURAM POST,
SREEKRISHNAPURAM, PALAKKAD.

BY ADVS. SRI. T.C. SURESH MENON
SRI. P. S. APPU
SRI. A. R. NIMOD
SRI. SANIL JOSE

RESPONDENTS:-

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1. THE SUB INSPECTOR OF POLICE,
SREEKRISHNAPURAM POLICE STATION
SREEKRISHNAPURAM P.O., PALAKKAD - 679 513.
 2. BHASKARAGUPTAN,
RESIDING AT KUTTICHIRA VEEDU, CHERANGODE
KOLAKATTUKURISSI P.O., SREEKRISHNAPURAM
PALAKKAD - 679 513.
 3. UNNIKRISHNAN,
RESIDING AT KUTTICHIRA VEEDU, CHERANGODE
KOLAKATTUKURISSI P.O., SREEKRISHNAPURAM
PALAKKAD - 679 513.
 4. MURALI,
RESIDING AT KUTTICHIRA VEEDU, CHERANGODE
KOLAKATTUKURISSI P.O., SREEKRISHNAPURAM
PALAKKAD - 679 513.
 5. SIVAN,
RESIDING AT KUTTICHIRA VEEDU, CHERANGODE
KOLAKATTUKURISSI P.O., SREEKRISHNAPURAM
PALAKKAD - 679 513

6. SREEDHARAN,
RESIDING AT PUTHENVEETIL VEEDU, CHERANGODE
KOLAKATTUKURISSI P.O., SREEKRISHNAPURAM
PALAKKAD - 679 513.

R1 BY SR. GOVERNMENT PLEADER SRI. C.R. SYAMKUMAR
R2-R6 BY ADV. SRI.SANTHEEP ANKARATH
R2-R6 BY ADV. SRI.ARUN MATHEW VADAKKAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. TRUE COPY OF THE RECEIPT EVIDENCING THE REMITTANCE OF PROPERTY TAX ALONG WITH THE TRANSLATED COPY OF THE SAME DATED 19.10.2013.

EXHIBIT P2. TRUE COPY OF THE POSSESSION CERTIFICATE ALONG WITH THE TRANSLATED COPY OF THE SAME DATED 01.08.2014.

EXHIBIT P3. TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT ALONG WITH THE TRANSLATED COPY OF THE SAME DATED 21.05.2014.

EXHIBIT P4. TRUE COPY OF THE ACKNOWLEDGMENT ALONG WITH THE TRANSLATED COPY OF THE SAME DATED 21.05.2014.

EXHIBIT P5. TRUE COPY OF THE DECISION TAKEN BY THE SREEKRISHNAPURAM GRAMA PANCHAYAT DATED 15.12.1979.

EXHIBIT P5(a). TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P5.

EXHIBIT P6. TRUE COPY OF THE SKETCH WHICH WOULD REFLECT THE LIE OF THE PROPERTY AND THE EARLIER ROAD AFTER THE FIRST SURRENDER AND THE PRESENT ROAD FORMED AFTER THE SECOND SURRENDER DATED -NIL-

RESPONDENT(S)' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE.

Sou.

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

W.P.(C). No. 20540 of 2014

Dated this the 21th day of January, 2015

J U D G M E N T

Shaffique,J

Petitioner has approached this Court seeking the following reliefs :

- "(i) issue a writ in the nature of mandamus directing the 1st respondent to afford adequate police protection to the life of the petitioner, his family members and also to the property comprising of 17.7 acres in R.S. No.136 and Sy. Nos.53/1A, 53/6 and 7/4 in Sreekrishnapuram I Village of Palakkad District from the threat from respondents 2 to 6 and their men.
- (ii) Issue a writ in the nature of mandamus directing the 1st respondent to render adequate protection to enable the petitioner and his workers to put up a barbed wire fence around his property covered by Ext.P2 possession certificate.
- (iii) issue a writ in the nature of mandamus directing the 1st respondent to consider Ext.P3 on merits expeditiously after affording to the petitioner a reasonable opportunity of being heard."

2. The facts involved in the writ petition would disclose that the petitioner intends to put up a barbed wire fence around his property. According to the petitioner, he has absolute title and interest over an extent of 17.7 acres in R.S. No.136 and Sy.

Nos.53/1A, 53/6 and 7/4 in Sreekrishnapuram I Village of Palakkad District, which he had obtained by Document Nos.699/61 and 263/66 of Sub Registry Office, Ottapalam.

3. According to the petitioner, respondents 2 to 6 and their men are obstructing the barbed fencing. There is no dispute regarding title as the private respondents did not claim title in respect of the said property.

4. Counter affidavit has been filed by respondents 2 to 6 inter alia stating that the area in question in which petitioner intends to put up the barbed wire fencing is used as a road and therefore, the petitioner cannot carry on the fencing of that portion, which will affect the access through that portion.

5. Reply affidavit has been filed inter alia stating that originally they have surrendered certain item of land for the purpose of the said road. Since the said road was having several curves and in order to have a smooth road traffic, Panchayat has again requested the petitioner to surrender another portion. Since the petitioner had given the property for such road facility, the Panchayat has agreed to restore back to the petitioner the portion which was earlier surrendered. In that premise it is contended that respondents 2 to 6 cannot have any claim in

respect of that portion.

6. Learned Government Pleader submits that some difficulties are faced by the people in the locality, if the property is fenced as contemplated, as the road was being used by the local people earlier.

7. Having regard to the above factual situation, the issue involved is with reference to the right of the petitioner regarding his enjoyment of the property and respondents 2 to 6 objecting the construction of the barbed wire fencing as their access to the property will be lost. The above matter cannot be adjudicated by the police, in a police protection matter. The petitioner has to approach the civil court for appropriate reliefs. We do not think that the petitioner is entitled for any reliefs as claimed.

With this observation the writ petition is dismissed.

Sd/-

**ASHOK BHUSHAN,
ACTING CHIEF JUSTICE**

Sd/-

**A.M.SHAFFIQUE,
JUDGE.**

SOU.