

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 20644 of 2015 (E)

PETITIONER(S) :-

GEORGE JOSEPH, S/O.ROBERT JOSEPH, G.I.COTTAGE,
KACHERI WARD, NEYYATTINKARA TALUK, TRIVANDRUM DISTRICT.

BY ADVS.SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH
SMT. SULEKHA M.

RESPONDENT(S) :-

1. THE SUB INSPECTOR OF POLICE
VELLARADA, ARYANCODE, TRIVANDRUM-695513.
2. THE SUPERINTENDENT OF POLICE
NEYYATTINKARA, TRIVANDRUM-695121.
3. V.J.STEPHENSON
S/O.VEDANAYAKAM, MARUTHAMKODE VEEDU, CHEMPOOR
MANNAMKONAM P.O., CHEMBOOR, TRIVANDRUM-695125.
4. V.J.WILFREDSON
S/O.VEDANAYAKAM, MARUTHAMKODE VEEDU, CHEMPOOR
MANNAMKONAM P.O., CHEMBOOR, TRIVANDRUM-695125.
5. V.J.SEBASTIAN
S/O.VEDANAYAKAM, RESIDING AT MARUTHAMKODE VEEDU, CHEMBOOR
MANNAMKONAM P.O., CHEMBOOR, TRIVANDRUM-695125.

R1 & R2 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 14-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 20644 of 2015 (E)

APPENDIX

PETITIONER(S) ' EXHIBITS :-

EXT.P1 : TRUE COPY OF THE ORDER IN IA 1665/2010 IN OS 278/2010
DT.8-4-2011 OF II ADDITIONAL MUNSIF COURT, NEYYATTINKARA.

EXT.P2 : TRUE COPY OF THE IA 5345/2010 IN OS 278/2010 FILED BY
THE PETITIONER BEFORE THE II ADDITIONAL MUNSIF COURT,
NEYYATTINKARA DT.22-7-2010 WITH TRUE ENGLISH TRANSLATION.

EXT.P3 : TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER
BEFORE R1 DT.11-5-2015.

EXT.P4 : TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER
BEFORE R2 DT.11-5-2015.

RESPONDENT(S) ' EXHIBITS :- NIL

//TRUE COPY//

P.A. TO JUDGE

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

W.P.(C) No.20644 of 2015

Dated this the 14th day of July 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard the learned counsel for the petitioner and the learned Government Pleader.

2. No notice is required to be issued to respondents 3 to 5 in view of the order, which is being passed in the writ petition.

3. The petitioner, by this writ petition has prayed for a direction to respondents 1 and 2 to provide adequate police protection against committing of waste in the property of the petitioner comprised in Old Sy. No.49/1 and Re-Sy. No.194/3 in Neyyattinkara Village. The petitioner's case is that a civil suit is already pending between the parties, which was filed by the petitioner as O.S.No.278 of 2010. It is further submitted that in the suit filed by the private respondents as O.S.No.325 of 2010, an injunction order had already been passed on 8.4.2011.

4. Learned counsel for the petitioner alleges that the private respondents have damaged saplings of the rubber plant, with regard to which, a complaint was submitted to the Sub Inspector. It is further submitted that earlier also, the petitioner had filed I.A.No.5345 of 2010 under Order XXXIX Rule 2A of CPC

before the Munsiff's Court.

5. Learned Government Pleader after obtaining instructions submits that on receipt of the complaint, the matter was enquired and no substance was found in the complaint. It is submitted that since the suits are pending before the civil court, it is appropriate for the parties to approach the civil court for appropriate orders.

6. We are of the view that if in any event, the petitioner alleges violation of the interim order, his remedy is to file an application under Order XXXIX Rule 2A of CPC and seeks such orders as necessary, including the police protection.

With the above observation, this writ petition is closed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE