

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 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

WP(C).No. 21112 of 2015 (L)

PETITIONER(S):

M/S.CONFIDENT PROJECTS (INDIA) PVT. LTD.,
CONFIDENT HOUSE, T.C.94/3674, KANNAMOOLA,
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM,
REPRESENTED BY ITS MANAGING DIRECTOR, T.A. JOSEPH,
AGED 51 YEARS, S/O.LATE ALEXANDER THERUVIPARAMBIL,
33/2652D, THERUVIPARAMBIL HOUSE, VENNALA P.O., KOCHI,
ERNAKULAM.

BY ADVS.SRI.S.SHANAVAS KHAN,
SMT.S.INDU,
SMT.F.FANCY.

RESPONDENT(S):

1. THE COMMISSIONER OF POLICE,
THIRUVANANTHAPURAM CITY,
THIRUVANANTHAPURAM-695 001.
2. THE SUB INSPECTOR OF POLICE,
POTHENCODE POLICE STATION,
THIRUVANANTHAPURAM-695 001.
3. THE CHENKOTTUKONAM RESIDENTS ASSOCIATION,
THUNDATHIL P.O., CHENKOTTUKONAM,
REPRESENTED BY ITS PRESIDENT, PIN-695 584.
4. THE THIRUVANANTHAPURAM CORPORATION,
REPRESENTED BY ITS SECRETARY, CORPORATION OFFICE,
THIRUVANANTHAPURAM-695 001.

R1 & R2 BY SR. GOVT. PLEADER SRI.C.R. SYAMKUMAR.
R3 BY ADVS. SRI.T.B.HOOD,
SMT.M.ISHA.

R4 BY SRI.N.NANDAKUMARA MENON, SENIOR ADVOCATE.
ADV. SRI.P.K.MANOJKUMAR, SC.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT-P1: TRUE COPY OF THE DEED OF SALE DATED 27/05/2013.
- EXHIBIT-P2: TRUE COPY OF THE POSSESSION CERTIFICATE DATED 06/02/2014 ISSUED BY THE VILLAGE OFFICER, AIROOPPARA.
- EXHIBIT-P3: TRUE COPY OF THE LOCATION CERTIFICATE ALONG WITH THE SKETCH DATED 06/02/2014 ISSUED BY THE VILLAGE OFFICER, AIROOPPARA.
- EXHIBIT-P4: TRUE COPY OF THE TAX RECEIPT FOR THE YEAR 2015-2016.
- EXHIBIT-P5: TRUE COPY OF THE COMMUNICATION DATED 18/03/2014 EVIDENCING THE GRANTING OF PERMISSION BY DISTRICT OFFICER, GROUND WATER DEPARTMENT, THIRUVANANTHAPURAM.
- EXHIBIT-P6: TRUE COPY OF THE BUILDING PERMIT DATED 04/11/2014 ISSUED BY THE FOURTH RESPONDENT.
- EXHIBIT-P7: TRUE COPY OF THE RECEIPT DATED 09/05/2015 ISSUED BY THE SECOND RESPONDENT.
- EXHIBIT-P8: TRUE COPY OF THE COMPLAINT DATED 15/05/2015 PREFERRED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

RESPONDENT'S EXHIBITS:-

- EXT.R3A COPY OF THE NOTICE DATED 17/07/2015 ISSUED BY THE DISTRICT OFFICER, GROUND WATER DEPARTMENT, THIRUVANANTHAPURAM TO THE PETITIONER AND THE 3RD RESPONDENT.
- EXT.R3AI ENGLISH TRANSLATION OF EXT.R3(A) NOTICE.
- EXT.R3B COPY OF THE PICTURE OF THE 'CONFIDENT AVIOR" PUBLISHED IN THE WEBSITE OF THE PETITIONER.
- EXT.R3C COPY OF THE MINUTES OF THE HEARING CONDUCTED IN THE CHAMBER OF THE DISTRICT OFFICER, GROUND WATER DEPARTMENT, THIRUVANANTHAPURAM ON 31/07/2015.
- EXT.R3D COPY OF THE REPRESENTATION DATED 13/08/2015 SUBMITTED BY 3RD RESPONDENT RESIDENTS ASSOCIATION.
- EXT.R3DI ENGLISH TRANSLATION OF EXT.R3(D).

//TRUE COPY//

P.S. TO JUDGE

rs.

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No. 21112 of 2015

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Dated this, the 17th day of August, 2015

J U D G M E N T

Shaffique, J.

Petitioner had obtained Ext.P6 building permit dated 4/11/2014 for construction of a multi storied building complex. For that purpose, petitioner requires a bore well for which he had obtained Ext.P5 permission dated 18/3/2014 from the Ground Water Department. According to the petitioner, there is obstruction from the side of the 3rd respondent and their men in the matter relating to construction of bore well. Though complaint was given to the police for necessary protection, no action has been taken by the police and therefore, the petitioner has approached this Court.

2. Counter affidavit is filed by the 3rd respondent *inter alia* stating that the 3rd respondent has not created any physical obstruction in the matter whereas they have approached the District Collector and had appraised the fact that if bore well is

constructed, it may affect the water source in the nearby locality. The matter is under consideration by the District Collector and therefore the allegations raised are absolutely baseless.

3. During the pendency of this writ petition, the 3rd respondent had filed IA No.12018/2015 and the minutes of hearing conducted in the chamber of the District Collector in the presence of Ground Water Department, the petitioner as well as the 3rd respondent Association, has been produced. The meeting was held on 31/7/2015 and certain decisions had been taken.

4. Both sides agree that the bore well can be constructed in terms with the decision taken in the said meeting. Learned Senior counsel appearing for the Thiruvananthapuram Corporation submits that the petitioner should be permitted to construct the building only with reference to Ext.P6 permit and the intention seems to be that they are going to construct more than the area permitted to be constructed.

5. Learned counsel for the petitioner submits that they will not make any construction other than with any valid permit being issued by the Corporation and as matters stand now, their intention is only to construct the building to the extent permitted

-:3:-

under Ext.P6.

6. Having regard to the aforesaid factual situation, we only observe that if there is any obstruction from the 3rd respondent or any other person in the matter relating to construction of bore well in accordance with the decision taken in the meeting held on 31/7/2015, police shall look into the matter and provide necessary protection for the same. It is made clear that the petitioner can construct the bore well strictly in accordance with the permit granted and under the supervision of the officers of the Ground Water Department.

Writ petition is disposed of with the above observation.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp

//True Copy//

PS to Judge