

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 3RD DAY OF AUGUST 2015/12TH SRAVANA, 1937

WP(C).No. 21899 of 2015 (J)

PETITIONER(S) :

**JAYESH M.J.,
SARADA BHAVAN, MUNDAKKAL, VAILOOR VILLAGE,
THIRUVANANTHAPURAM TALUK,
THIRUVANANTHAPURAM DISTRICT, PIN-695 302.**

**BY SRI.N.SUKUMARAN (SENIOR ADVOCATE)
ADVS. SRI.S.SHYAM
SRI.N.K.KARNIS
SRI.V.K.BALACHANDRAN
SRI.KIRAN PETER KURIAKOSE**

RESPONDENT(S) :

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO HOME DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001.**
- 2. CIRCLE INSPECTOR OF POLICE,KAZHAKKOOTTAM,
KAZHAKKOOTTAM.P.O., THIRUVANANTHAPURAM TALUK,
THIRUVANANTHAPURAM DISTRICT, PIN-695 582.**
- 3. SUB INSPECTOR OF POLICE,
KAZHAKKOOTTAM POLICE STATION, KAZHAKKOOTTAM.P.O.,
THIRUVANANTHAPURAM TALUK,
THIRUVANANTHAPURAM DISTRICT, PIN-695 582.**
- 4. V.KUMARAN,
S/O.VELAYUDHAN, RESIDING AT CANAL PURAMBOKE,
HEAD LOAD WORKER, C/O.I N T U C HEAD LOAD WORKERS UNION,
MENAMKULAM, KAZHAKKOOTTAM.P.O., PIN-695 882.**
- 5. V.KUMARAN,
S/O.GOPI, HEAD LOAD WORKER, RESIDING AT CANAL PURAMBOKE,
C/O.C.I.T.U HEAD WORKERS UNION, MENAMKULAM,
KAZHAKKOOTTAM.P.O., PIN-695 882.**

**R1 TO R3 BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN
R4 & R5 BY ADV. SRI.C.A.CHACKO**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS :

P1: TRUE COPY OF THE LOCATION SKETCH OF THE PROPERTY COMPRISED IN SY.NO.230/6 OF MENAMKULAM VILLAGE OF THIRUVANANTHAPURAM TALUK.

P1(A): TRUE ENGLISH TRANSLATION OF THE MALAYALAM PARTS OF EXT.P1.

P2: TRUE COPY OF THE PERMIT FOR CONSTRUCTION OF BUILDING ISSUED FROM THE KADINAMKULAM GRAMA PANCHAYAT DATED 19.03.2015.

P3: TRUE COPY OF THE LETTER APPOINTING THE PETITIONER FOR SUPERVISION IN CHARGE OF THE BUILDING TO BE CONSTRUCTED AS PER EXT.P2 DATED 25.04.2015.

P3(A): ENGLISH TRANSLATION OF EXT.P3.

P4: TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 11.07.2015.

P4(A): ENGLISH TRANSLATION OF EXT.P4.

P5: TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT ACCEPTING EXT.P4.

P6: TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.776/2015 OF THE 3RD RESPONDENT.

P6(A): ENGLISH TRANSLATION OF MALAYALAM PARTS OF EXT.P6.

P7: TRUE COPY OF THE DISCHARGE CERTIFICATE ISSUED FROM A.J.HOSPITAL, KAZHAKKOOTTAM OF THE PETITIONER DATED 11.07.2015.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No. 21899 of 2015

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Dated this, the 3rd day of August, 2015

J U D G M E N T

Shaffique, J.

Petitioner has approached this Court seeking police protection alleging unlawful obstruction in the matter relating to construction of an apartment complex by respondents 4, 5 and their men. It is stated that the petitioner is authorised by the land owner for constructing an apartment complex in a property having an extent of 26 cents in Sy.No.230/6 of Menamkulam Village of Thiruvananthapuram Taluk.

2. Demanding loading and unloading work in the construction site, respondents 4 and 5 have obstructed the petitioner from carrying on any other work. It is alleged that the area in question is not a scheme covered area under the Kerala Head Load workers (Regulation of Employment and Welfare) Scheme, 1983. On account of the obstruction, petitioner submitted complaint to the police and though crime has been

registered as Crime No.776 of 2015, no action had been taken by the police to render necessary police protection to prevent the activities of respondents 4 and 5 in creating obstructions.

3. Counter affidavit is filed by respondents 4 and 5 stating that the writ petition is filed only as a ruse to prevent the loading and unloading work being given to respondents 4 and 5 and their members. It is stated that the petitioner has no *locus standi* to file the writ petition.

4. However, learned counsel for respondents does not dispute the fact that the area in question is not a scheme covered area.

5. Having regard to the aforesaid factual situation, we are of the view that being not a scheme covered area, respondents 4 and 5 are not entitled to demand loading and unloading work in the petitioner's site. Writ petition being filed for police protection, any person, who is aggrieved by the action of respondents 4 and 5, is entitled to approach this Court. In this case, it is stated by the petitioner that he has been authorised to supervise and construct the building in question and therefore he definitely has *locus standi* to file the above writ petition.

-:3:-

Having regard to the aforesaid factual situation, we are of the view that this writ petition can be disposed of as under;

If there is any obstruction by respondents 4 and 5 or their men in the matter relating to any construction activities or loading and unloading work being carried on in the site as mentioned above, the 3rd respondent shall ensure maintenance of law and order from any such illegal action from respondents 4 and 5 and their men.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

//True Copy//

PS to Judge