

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 22271 of 2015 (H)

PETITIONER(S):

- 1. N.S.SUSHAMAN AGED 76 YEARS
S/O.NARAYANAN, VAZHAVILAYIL, OLLAL
KOONAYIL CHERRY, PARAVUR, KOLLAM DISTRICT.**
- 2. P.S.VIMALA,D/O.SARASWATHI AGED 68 YEARS
VAZHAVILAYIL, OLLAL, KOONAYIL CHERIYIL
PARAVUR, KOLLAM DISTRICT.**

BY ADV. SRI.J.HARIKUMAR

RESPONDENT(S):

- 1. THE SUB INSPECTOR OF POLICE
PARAVUR, KOLLAM DISTRICT 691 301.**
- 2. THE CIRCLE INSPECTOR OF POLICE
PARAVUR, KOLLAM DISTRICT 691 301.**
- 3. THE ASSISTANT COMMISIONER OF POLICE
CHATHANNOOR, KOLLAM DISTRICT 691 301.**
- 4. MRS.PUSHPAMMA
D/O.BHARGAVI, 'SIVAM', OLLAL
KOONAYIL CHERRY, PARAVUR, KOLLAM DISTRICT 691 301.**
- 5. VIJAYAKUMAR
S/O.KARUNAKARAN, VALIYAVEETIL THEKKATHIL, OLLAL
KOONAYIL CHERRY, PARAVUR, KOLLAM DISTRICT 691 301.**

R4,R 5 BY ADV. SRI.PRATHEESH.P

R4,R 5 BY ADV. SMT.S.SEETHA

R1 to R3 BY SR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

P1-TRUE COPY OF THE POSESSION CERTIFICATE DATED 3.2.2015

P2- TRUE COPY OF THE BUILDING PERMIT DATED 16.2.2015

P3- TRUE COPY OF THE SITE PLAN

**P4- TRUE COPY OF THE LETTER NO.GKT-207/15 FROM THE DISTRICT OFFICER,
GROUND WATER DEPARTMENT, KOLLAM.**

**P5- TRUE COPY OF THE JUDGMENT OF THE MUNSIFF-MAGISTRATE PARAVUR,
DATED 30..2015 IN OS NO.76/2015**

**P6- TRUE COPY OF THE ORDER DATED 17.3.2015 OF THE SECRETARY PARAVUR
MUNICIPALITY**

P7- TRUE TRANSLATION OF EXBT P6

**P8- TRUE TRANSLATION OF THE JUDGMENT DATED 20.3.2015 OF THIS
HONOURABLE COURT IN WP(C) NO.7365 OF 2015**

**P9- TRUE COPY OF THE ORDER OF THE DISTRICT COLLECTOR, KOLAM NO.M2-
14793/15 DATED 27.6.2015**

**P10- TRUE COPY OF THE PETITION DATED 6.7.15 SUBMITTED BEFORE THE FIRST
RESPONDENT**

**P11- TRUE COPY OF THE ACKNOWLEDGEMENT OF RECEIPT OF THE COMPLAINT
DATED 6.7.15**

RESPONDENT(S)' EXHIBITS

**EXT.R4(a): TRUE COPY OF THE ORDER PASSED BY THE DEPUTY COLLECTOR
(FOR DISTRICT COLLECTOR) DATED 15.7.2015.**

EXT.R4(b): THE ENGLISH TRANSLATION OF EXT.R4(a).

**EXT.R4(c): THE TRUE COPY OF THE PLAINT FILED BY THE RESPONDENTS 4 AND
5 BEFORE THE HON'BLE MUNSIFF COURT, KOLLAM AS OS NO.704/2015.**

Rp

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PS to Judge

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No. 22271 of 2015

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Dated this, the 30th day of July, 2015

J U D G M E N T

Shaffique, J.

Petitioners have approached this Court seeking police protection *inter alia* contending that private respondents are obstructing the petitioners from constructing a tube well in their property. It is stated that the petitioners have obtained licence and permit from the local authority as well as from the Ground Water Department. Respondents had approached the District Collector challenging the permit granted in favour of the petitioners. Subsequently, by Ext.P9, permit was granted for construction of the tube well under the supervision of the Ground Water Department. Despite Ext.P9 order, it is submitted by the learned counsel for the petitioners that respondents 4 and 5 are creating obstruction. Petitioners therefore filed complaint before the police seeking appropriate police protection to enable the petitioners to construct the tube well and since no

action had been taken by the police in that regard, this writ petition has been filed.

2. Counter affidavit has been filed by respondents 4 and 5 indicating that they have already filed a suit as OS No.704/2015 before the Munsiff's Court, Kollam challenging Ext.P9. Learned counsel submits that an Advocate Commissioner had already been deputed, inspection is completed and the report has been filed. The matter is pending consideration before the learned Munsiff.

3. Having regard to the aforesaid factual situation, we are of the view that if respondents 4 and 5 have any dispute regarding the petitioners' constructing the tube well, they will have to obtain appropriate interim orders from the civil court. They cannot take law into their hands and physically prevent the petitioners from constructing the tube well as permitted in terms of Ext.P9 and all other licences/permission granted by the competent authority. If there is any such obstruction, police is bound to ensure maintenance of law and order.

In the above circumstances, the writ petition is disposed of as under;

W.P(C) No.22271/15

-:3:-

1st respondent shall ensure maintenance of law and order in the matter relating to construction of tube well by the petitioners, which will be subject to the interim order, if any, as may be passed by the Civil Court in OS No.704/2015 pending before the Munsiff's Court, Kollam.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge