

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

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 24957 of 2013 (T)

PETITIONER(S)/PETITIONERS :

1. A.M.GOPALAN AGED 69 YEARS
S/O. CHATHU, RESIDING AT AMBALATHIL MEETHAL
CHENNAI-24, MANAGING DIRECTOR
SREE GOKULAM CHIT & FINANCE CO.PVT.LTD.
REGISTERED AND CORPORATE OFFICE AT 66, ARCOT ROAD
KODAMBAKKAM, CHENNAI-24, TAMIL NADU.

2. SREE GOKULAM LOGISTICS PVT. LTD.
HAVING ITS OFFICE AT DARUSSALAM COMPLEX, 3RD FLOOR
MAVOOR, ROAD, KOZHIKODE
REPRESENTED BY ITS EXECUTIVE DIRECTOR, ANIYACHALIL
KOKKALLUR P.O., BALUSSERY, KOZHIKODE DISTRICT.

BY ADVS.SRI.K.S.BABU
SMT.N.SUDHA
SRI.K.S.GOPI
SRI.BABU SHANKAR
SRI.VIPIN VISWAN

RESPONDENT(S)/RESPONDENTS :

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO HOME DEPARTMENT
OFFICE OF THE SECRETARY TO HOME DEPARTMENT
THIRUVANANTHAPURAM-695 001.

2. STATE POLICE CHIEF
OFFICE OF THE STATE POLICE CHIEF
HEAD QUARTERS OFFICE, THIRUVANANTHAPURAM-695 001.

3. SUPERINTENDENT OF POLICE
OFFICE OF THE SUPERINTENDENT OF POLICE
KOZHIKODE (RURAL), VADAKARA
KOZHIKODE DISTRICT-673 301.

4. CIRCLE INSPECTOR OF POLICE
OFFICE OF THE CIRCLE INSPECTOR OF POLICE, QUILANDY
KOZHIKODE DISTRICT-673 305.

5. SUB INSPECTOR OF POLICE
ATHOLI POLICE STATION, ATHOLI, QUILANDY TALUK
KOZHIKODE DISTRICT-673 305.

6. HARIDASAN , AGED 38 YEARS
S/O. KUNJIRAMA KURUPU, EDATHIL HOUSE, KOOMULLY
MODAKALLUR P.O., VIA ATHOLY
KOZHIKODE DISTRICT-673 315.

7. SASI, AGED 40 YEARS
S/O. SANKARAN, EDAVALATH HOUSE, MODAKALLUR P.O.
VIA ATHOLY, KOZHIKODE DISTRICT-673 315.

8. SURENDRAN, AGED 48 YEARS
S/O. SANKARAN, EDAVALATH HOUSE, KOOMULLY
MODAKALLUR P.O., VIA ATHOLY
KOZHIKODE DISTRICT-673 315.

9. E.K.SANKARAN, AGED 68 YEARS
EDAVALATH HOUSE, KOOMULLUY, MODAKALLUR P.O.
VIA ATHOLY, KOZHIKODE DISTRICT-673 315.

10. DAMODARAN , AGED 58 YEARS
THEKKE EDAVALATH HOUSE, KOOMULLY, MODAKALLUR P.O.
VIA ATHOLY, KOZHIKODE DISTRICT-673 315.

* 11. AZEES, AGED 40 YEARS
S/O. UMMER, NETTOOLY HOUSE, KOOMULLY
MODAKALLUR P.O., VIA ATHOLY
KOZHIKODE DISTRICT-673 315.

* 12. GOVINDAN, AGED 58 YEARS
S/O. ACHUTHA KURUP, KOMATH HOUSE, KOOMULLY
MODAKALLUR P.O., VIA ATHOLY
KOZHIKODE DISTRICT-673 315.

(RESPONDENTS 11 AND 12 ARE DELETED FROM THE
PARTY ARRAY AS PER THE ORDER DATED 3-3-2015

IN I.A. NO. 3208 OF 2015)

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13. MOHAMMED FARUZ, AGED 20 YEARS
S/O. RABIA, NAINA MAHAL, KOOMULLY
MODAKALLUR P.O., VIA ATHOLY
KOZHIKODE DISTRICT-673 315.

14. T.E.KRISHNAN, AGED 61 YEARS
THEKKAEDAVALATHU HOUSE, RETIRED POST MAN
MODAKALLUR P.O., VIA ATHOLY
KOZHIKODE DISTRICT-673 315.

15. V.V.BHASKARAN, AGED 57 YEARS
RETIRED FROM AGRICULTURAL DEPARTMENT, AMRITA
MODAKALLUR P.O., VIA ATHOLY,
KOZHIKODE DISTRICT-673 315.

R1 TO R5 GOVT.PLEADER SRI. C.R. SHYAMKUMAR
R7 -R 10 & 13 -R 15 BY ADV. SRI.K.P.SUDHEER
& ARUN MATHEW VADAKKAN

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

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 : COPY OF THE BUILDING PERMIT
DTD.13.2.2013 ISSUED BY ATHOLI GRAMA
PANCHAYAT.

P2 : COPY OF THE ORDER DTD.18.4.2013 OF
ATHOLI GRAMA PANCHAYAT.

P3 : COPY OF THE COMPLAINT SUBMITTED BY
THE 2ND PETITIONER TO THE 5TH
RESPONDENT ON 5.6.2013.

P4 : COPY OF THE RECEIPT OF
ACKNOWLEDGMENT DTD.6.6.2013 ISSUED BY
THE 5TH RESPONDENT.

P5 : COPY OF THE COMPLAINT SUBMITTED BY
THE 2ND PETITIONER TO THE 3RD
RESPONDENT ON 6.6.2013.

P6 : COPY OF THE COMPLAINT SUBMITTED BY
THE 2ND PETITIONER TO THE 4TH
RESPONDENT ON 6.6.2013.

RESPONDENT(S) ' EXHIBITS

Ext.R15 (a): True copy of the
complaint dated 23-3-2013 submitted by
the 15th respondent and others before
the District Collector, Kozhikode

Ext. R15 (b): True copy of the
complaint dated 23-3-201 submitted by
15th respondent and others before the
Revenue Divisional Officer, Kozhikode.

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Ext. R15 ©: True copy of complaint dated 28-2-2014 submitted by 15th respondent and others before the Agricultural Officer, Atholi

Ext. R15(d): True copy of complaint dated 28-2-2013 submitted by 15th respondent and others before the Village Officer, Atholi

Ext. R15 (e): True copy of appeal dated 17-5-2013 submitted by 15th respondent and others before the President, Atholi Grama Panchayat

Ext.P15 (f): True copy of statement dated 26-6-2013 submitted by 15th respondent and others before the President, Atholi Grama Panchayat

Ext. R15 (g): True copy of complaint submitted by the 6th respondent to the District Collector, Kozhikode dated 25-4-2013

Ext.R15 (h): True copy of Decision No. 8 dated 27-6-2013 of Atholi Grama Panchayath

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

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W.P. (C) No. 24957 of 2013 – T
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Dated this the 3rd day of March, 2015

JUDGMENT

Shaffique, J.

Petitioners have approached this Court seeking police protection for constructing a building in terms of Ext.P1 permit issued by the Grama Panchayath. According to the petitioners, private respondents are obstructing the construction of the building without any basis. Complaint was given to the police seeking protection to continue the construction. Since no action has been taken on the part of the police, petitioners have approached this Court.

2. Counter affidavit has been filed by respondents 7 to

10 and 13 to 15 inter alia contending that the petitioners have obtained an illegal permit for the construction. Hence, they have taken up the matter before the Local Authority who has issued a stop memo. Therefore, the petitioners cannot proceed with the construction. Further it is submitted that the petitioners had approached the Tribunal for Local Self Government Institutions, challenging the stop memo issued by the Local Authority and obtained an order of stay.

3. Having regard to the fact that the stop memo issued against the petitioners has been stayed by the Tribunal, definitely, it is open for the petitioners to proceed with the construction until further orders are passed by the Tribunal. As far as private respondents are concerned, they cannot physically obstruct the construction activities undertaken by the petitioners on the basis of a valid permit issued by the local authority.

4. Under such circumstances, if there is any such obstruction, the police is bound to interfere and ensure that no

such obstruction is caused by private respondents and to see that law and order is maintained.

5. In the result, this Writ Petition is disposed of as under:

Respondents 4 and 5 are directed to ensure that law and order is maintained in the matter relating to the construction of the building by the petitioners in terms of the valid building permit issued by the local authority. However, this order will be subject to any further orders that may be passed by the Tribunal for Local Self Government Institutions .

Sd/- ASHOK BHUSHAN ,
Ag. CHIEF JUSTICE

Sd/-A.M.SHAFIQUE,
JUDGE

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/truecopy/

P.S.tojudge