

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&**

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

WP(C).No. 22398 of 2015 (Y)

PETITIONER(S):

**THOMAS AGED 73 YEARS
S/O.LATE MATHULLA THOMAS, THUBEL HOUSE, KARINGACHIRA
IRUMBANAM DESOM, ERNAKULAM.**

**BY ADVS.SRI.P.N.SUKUMARAN
SRI.K.A.ANAS**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY (HOME)
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM-695001.**
- 2. THE SUB INSPECTOR OF POLICE
HILL PALACE POLICE STATION, ERNAKULAM.**
- 3. THE CIRCLE INSPECTOR OF POLICE
HILL PALACE POLICE STATION, THIRIPUNUTHURA
ERNAKULAM DISTRICT.**
- 4. THE SUPERINTENDENT OF POLICE (RURAL)
ERNAKULAM.**
- 5. THE PRESIDING OFFICER
MAINTENANCE TRIBUNAL AND SUB COLLECTOR, FORT KOCHI.**
- 6. SHIBU, AGED 45 YEARS
S/O.THOMAS, THUBEL HOUSE, KARINGACHIRA
IRUMBANAM DESOM, ERNAKULAM.**
- 7. SANI, AGED 40 YEARS
W/O.SHIBU, THUBEL HOUSE, KARINGACHIRA
IRUMBANAM DESOM, ERNAKULAM.**

**Addl.8. THE DISTRICT COLLECTOR
ERNAKULAM - 682 030.ADDL.R8 IS IMPEADED AS PER ORDER DATED
26.11.2015 IN IA 17100/15.**

**R6 & 7 BY ADV. SRI.SUNIL NAIR PALAKKAT
R6-R7 BY ADV. SRI.K.N.ABHILASH
R1-R4 BY SR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 22398 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE MAINTENANCE TRIBUNAL, FORT KOCHI DT 20/2/14.

EXHIBIT-P2: TRUE COPY OF THE ORDER PASSED BY THE MAINTENANCE TRIBUNAL, FORT KOCH DATED 16/3/15I.

EXHIBIT-P3: TRUE COPY OF THE RECEIPT ISSUED FROM THE KSEB, ELECTRICAL SETION,

CHOTTANIKKARA, DATED 17.4.2015.

EXHIBIT-P4: TRUE COPY OF THE PETITION FILED BEFORE THE CIRCLE INSPECTOR OF POLICE, HILL PALACE POLICE STATION. DT 11/4/15.

EXHIBIT-P5: TRUE COPY OF THE RECEIPT ISSUED FROM THE OFFICE OF THE CIRCLE INSPECTOR OF POLICE, HILL PALACE POLICE STATION.

EXHIBIT-P6: TRUE COPY OF THE PETITION FILED BEFORE THE MAINTENANCE TRIBUNAL, FORT KOCHI.

RESPONDENT(S)' EXHIBITS

EXT.R6(a): TRUE COPY OF THE APPEAL NO.S.3672 OF 2015 ON THE FILES OF THE DISTRICT COLLECTOR AND APPELLATE TRIBUNAL UNDER THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZEN ACT DATED 4.5.2015.

Rp

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P.S to Judge

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No. 22398 of 2015

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Dated this, the 18th day of December, 2015

J U D G M E N T

Shaffique, J.

This writ petition has been filed seeking police protection for enforcing Ext.P2 order passed by the Maintenance Tribunal and Sub Collector, Fort Kochi. By virtue of this order, it was indicated that if the complainant, i.e., the petitioner, desires to evict the opposite parties from the house, he can evict them at any time. The contention urged on behalf of the petitioner is that though he had requested the police authorities to enforce Ext.P2 order, no action has been taken in the matter as he wanted respondents 6 and 7 to be evicted from the said premises.

2. Counter affidavit has been filed by respondents 6 and 7 *inter alia* indicating that the Revenue Divisional Officer had no jurisdiction to pass Ext.P2 order and that apart, respondents have preferred statutory appeal before the District Collector, which is pending consideration and until such time, further directions shall

-:2:-

not be issued.

3. Having regard to the fact that no stay has been granted by the District Collector in the appeal filed by respondents 6 and 7, Ext.P2 order is enforceable under law. Under such circumstances, we direct the 2nd respondent to enforce Ext.P2 order. However, it shall be done at the desire of the petitioner as directed in Ext.P2 order.

4. However, we make it clear that the grant of police protection to enforce Ext.P2 order shall not preclude respondents 6 and 7 from obtaining appropriate order of stay from the District Collector.

Writ petition is disposed of accordingly.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp18/12/2015

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PS to Judge