

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 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 25261 of 2013 (G)

PETITIONERS :

1. B.V.SUNILKUMAR
S/O.BHASKARAN, NALUKETTU HOUSE, MULLOOR
MULLOOR PO, VIZHINJAM, THIRUVANANTHAPURAM.
2. AGNES RANI
W/O.B.V.SUNILKUMAR, NALUKETTU HOUSE, MULLOOR
MULLOOR PO, VIZHINJAM, THIRUVANANTHAPURAM

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS :

1. THE STATE OF KERALA
REPRESENTED BY THE HOME SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM 695 001.
2. THE CIRCLE INSPECTOR OF POLICE
NEYATTINKARA POLICE STATION, NEYATTINKARA
THIRUVANANTHAPURAM DISTRICT 695 121.
3. THE SUB INSPECTOR OF POLICE
BALARAMAPURAM POLICE STATION, BALARAMAPURAM
THIRUVANANTHAPURAM DISTRICT 695 121.
4. KUMARESAN CHETTIYAR
PRESIDENT, VANIKA VAISYA SABHA, V.V.HOUSE
VANIGAR THERUVE, KATTAKKADA ROAD, BALARAMAPURAM
THIRUVANANTHAPURAM DISTRICT 695 501.
5. NIZZAR
S/O.MYDEENKHAN, E.V.HOUSE, KACHERRY THAPPU
VANNIYAR STREET, BALARAMAPURAM
THIRUVANANTHAPURAM DISTRICT 695 501.
6. THIRAVIYAM
S/O.AYYAPPAN, AJITH TRAVELS, VANNIYAR STREET
BALARAMAPURAM, THIRUVANANTHAPURAM 695 501.

7. ANIL RAJ
S/O.MURUGAN, VARUVILA VEEDU, BALARAMAPURAM
THIRUVANANTHAPURAM DISTRICT 695 501.
 8. AYYAPPAN
S/O.VELAYUDHAN CHETTIYAR, VANNIYAR STREET
BALARAPURAM , THIRUVANANTHAPURAM DISTRCT 695 501.
 9. SANKAR
S/O.MURUGAN, VARUVILA VEEDU, BALARAMAPURAM
THIRUVANANTHAPURAM DISTRICT 695 501.
 10. RAJU
S/O.SANTHA, VARUVILAKATH VEEDU, VANIGAR STREET
BALARAMAPURAM, THIRUVANANTHAPURAM DISTRICT 695 501.
 11. K.HARIHARAN KUMAR
S/O.KOLAPPAN CHETTIYAR
WINDSOR COMPUTER AND STATIONARY SHOP, M.K.COMPLEX
KATTAKKADA ROAD, BALARAMAPURAM
THIRUVANANTHAPURAM DISTRICT 695 501.
- R1 TO R3 BY STATE ATTORNEY, SRI.P. VIJAYARAGHAVAN
R4 TO R11 BY ADVS. SRI.R.T.PRADEEP
SRI.P.BIJIMON

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT P1 : COPY OF THE DOCUMENT DATED 22/10/2012 IN RESURVEY NO.183
OF ATHIYANNOOR VILLAGE IN NEYYATTINKARA TALUK IN
BALARAMAPURAM PANCHAYAT.

EXHIBIT P2 : COPY OF THE REPORT DATED 19/3/2013 SUBMITTED BY THE
DEPUTY THAHSILDAR, TALUK OFFICE, NEYYATTINKARA.

EXHIBIT P3 : COPY OF THE ORDER DATED 2/7/2013 ISSUED BY THE
BALARAMAPURAM PANCHAYAT.

EXHIBIT P4 : COPY OF THE ORDER DATED 12/7/2013 IN IA 1285/2013 IN APPEAL
BNO.650/2013 BEFORE THE TRIBUNAL FOR LOCAL SELF GOVERNMENT
INSTITUTIONS, THIRUVANANTHAPURAM.

EXHIBIT P5 : COPY OF THE PHOTOGRAPHS.

EXHIBIT P6 : COPY OF THE COMPLAINT DATED 10/8/2013 BEFORE
THE 3RD RESPONDENT.

EXHIBIT P7 : COPY OF THE COMPLAINT DATED 10/8/2013 BEFORE THE
BALARAMAPURAM POLICE STATION.

EXHIBIT P8 : COPY OF THE FIR DATED 10/8/2013 BEFORE THE BALARAMAPURAM
POLICE STATION.

EXHIBIT P9 : COPY OF THE INJUNCTION ORDER DATED 7/12/2012 IN
OS NO.1101/2012 BEFORE THE MUNSIFF'S COURT, NEYYATTINKARA.

EXHIBIT P10 : COPY OF THE POSTER.

EXHIBIT P11 : COPY OF THE COMPLAINT BEFORE THE 3RD RESPONDENT.

EXHIBIT P12 : COPY OF THE COMPLAINT DATED 1/10/2013 BEFORE
THE 3RD RESPONDENT.

RESPONDENTS' EXHIBITS :

EXT.R7(A) : TRUE COPY OF THE ORDER DATED 7.1.13 IN O.P. No.2001/2012
BY OMBUDSMAN FOR LOCAL SELF INSTITUTION.

EXT.R7(B) : TRUE COPY OF THE ORDER DATED 10.10.2013 IN B.A. No.6738/2013
BY THIS HON'BLE COURT.

/TRUE COPY/

PA TO JUDGE

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

W.P.(C) No. 25261 OF 2013

Dated this the 10th day of February, 2015

JUDGMENT

Shaffique, J.

Petitioners claiming to be owners in possession of an extent of 1.30 Ares of property in Re-survey No.183 of Athiyannoor Village in Neyyattinkara Taluk have approached this Court seeking for a direction to respondents 1 and 3 to grant police protection to the petitioners, their staff and workers for entering into the property, their office and also for construction of a building and compound wall in the said property. It is alleged that respondents 4 to 11 are creating obstruction to the petitioners in enjoying the property and that they are threatening the petitioners with dire consequences.

2. Respondents 4 to 11 have filed a counter affidavit producing Ext.R7(a), an order passed by Ombudsman for Local Self Government Institution dated 07.01.2013 in which petitioners are respondents 2 and 3. Ombudsman has issued directions to the 2nd respondent not to proceed further with the construction till a decision is taken by the Panchayat. The issue

is related to the construction being made by the petitioners by reducing the width of pathway.

3. It is also pointed out that pursuant to the directions issued by Ombudsman, the local authority has withdrawn the permission granted to the petitioners and directed them to demolish the objectionable portion of the construction. So far, no order has been passed by the local authority as pointed out in the order of Ombudsman.

In such circumstances it is clear that the dispute between the petitioner as well as private respondents is with regard to the construction being made by the petitioners, the validity of which is pending adjudication. Hence we do not think that this is a fit case for ordering police protection. In the result, the Writ Petition is dismissed.

**Ashok Bhushan,
Acting Chief Justice.**

**A.M. Shaffique,
Judge.**