

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 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 23180 of 2015 (V)

PETITIONER :

V-STAR CREATIONS PVT.LTD AGED 44 YEARS
REG. OFFICE: 11/35, D&E, KAKKANAD (P.O)
KUNNUMPURAM ROAD, KAKKANAD
COCHIN 682 030 REPRESENTED BY ITS GENERAL
MANAGER (OPERATIONS) MR.JOSHY MATHEW

BY ADVS.SRI.V.SANTHARAM
SRI.LAKSHMEESH.S.KAMATH
SRI.P.S.SISHOY
SRI.K.M.BIJU

RESPONDENTS :

1. SUPERINTENDENT OF POLICE
ERNAKULAM (RURAL), ALUVA 683 101.
2. SUB INSPECTOR OF POLICE
THADYATHAPARAMBU POLICE STATION, MALAYADANTHURUTHY
ALUVA, ERNAKULAM 683 561.
3. THE KERALA HEAD LOAD WORKER'S WELFARE BOARD
ALUVA (COMMITTEE), 2ND FLOOR, MUNICIPAL BLDG
OLD PRIVATE STAND, ALUVA 683 101
REPRESENTED BY ITS CHAIRMAN.
4. THE DISTRICT LABOUR OFFICER
KAKKANADU, ERNAKULAM, KOCHI 682 030.
5. THE ASSISTANT LABOUR OFFICER,
II FLOOR, CIVIL STATION BUILDING, PERUMBAVOOR P.O.
PIN: 683 542.
6. HEAD LOAD WORKERS' UNION (INTUC)
POOL NO.59 MALAYIDOMTHURUTH, KIZHAKKAMBALAM VILLAGE
ERNAKULAM REPRESENTED BY ITS SECRETARY.

R1, R2, R4 & R5 BY SR.GOVERNMENT PLEADER, SRI.C.R. SYAM KUMAR.
R3 BY ADV. SRI.C.S. AJITH PRAKASH, SC, KHWB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

- P1: TRUE COPY OF THE CERTIFICATE OF INCORPORATION NO.9-10386 OF 1996
ISSUED BY THE REGISTRAR OF COMPANIES, KERALA.
- P2: TRUE COPY OF THE CERTIFICATE OF REGISTRATION (TIN/PIN: 32070438652)
DATED 13/7/2015 ISSUED BY THE COMMERCIAL TAX DEPARTMENT.
- P3: TRUE COPY OF THE CASH RECEIPT DATED 3/7/2015 ISSUED BY THE
SECRETARY, KIZHAKKAMBALAM GRAMA PANCHAYAT.
- P4: TRUE COPY OF THE CHALAN NO.151 DATED 28/7/2015.
- P5: TRUE COPY OF THE IDENTITY CARDS ISSUED TO 9 ATTACHED HEADLOAD
WORKERS OF THE PETITIONER.
- P6: TRUE COPY OF THE DEED OF LEASE DATED 1/7/2015 EXECUTED BETWEEN THE
PETITIONER AND THE MALAYIDOMTHURUTH SERVICE CO-OPERATIVE BANK
LIMITED.
- P7: TRUE COPIES OF THE COMPLAINT DATED 28/7/2015 ALONG WITH THE
ACKNOWLEDGMENT RECEIPT.
- P8: TRUE COPY OF THE INTERIM ORDER DATED 25/1/2011 IN WPC NO.2252/2011
PASSED BY THE HON'BLE HIGH COURT OF KERALA.
- P9: TRUE COPY OF THE JUDGMENT DATED 11/6/2012 PASSED BY THE HON'BLE
HIGH COURT OF KERALA IN WPC NO.10392/2012.

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

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

W.P(C). No. 23180 of 2015

Dated this the 12th day of October, 2015

JUDGMENT

Shaffique, J

Petitioner has approached this Court seeking police protection in the matter relating to loading and unloading work being done by the petitioner in its new premises. It is alleged that the sixth respondent Union is obstructing the loading and unloading work, though the petitioner is engaging their permanent workers, who have got identity cards under Rule 26A(3) of the Headload Workers Rules.

2. A statement has been filed by the third respondent inter alia stating that though the petitioner has workers registered under the the 26A(3) of the Headload Workers Rules, in so far as the petitioner had shifted the premises, fresh registration is to be taken for the said area.

3. The issue projected by the third respondent is in fact covered by the judgment of this Court in **Crescent Trading**

Company v. Sub Inspector of Police 2009(3) KLT 16 and also a judgment of this Court in Writ Petition(C)No.23510 of 2010 **Eastern Condiments Private Limited. Vs. Sub Inspector of Police and Others.** It is held by this Court that if the petitioner has its own workers, registered under 26A(3) of the Headload Workers Rules, in the name of the establishment, even if the establishment changes place of business or opens a new branch, it is always open for the petitioner to engage the workers who have registration card for carrying loading and unloading work.

4. The law in this regard being clear, we do not think that the 6th respondent is entitled to obstruct the loading and unloading work being carried on by the petitioner with its own registered workers. Though notice was ordered to the sixth respondent, there is no appearance on his behalf.

5. Having regard to the aforesaid fact situation, there will be a direction to the second respondent to ensure law and order in the matter relating to loading and unloading work being carried on by the petitioner through its registered workers at the business premises of the petitioner, 1/389, Malayidomthuruth Service Co-operative Bank Complex,

Malayidomthuruth, Kizhakkambalam Village, Ernakulam and ensure that no obstruction is being caused by members of the 6th respondent.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M.SHAFFIQUE,
JUDGE

// True copy //

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