

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

WP(C).No. 26071 of 2013 (H)

PETITIONER(S):

**P.P. SADIQUE ALI, AGED 40 YEARS,
S/O.MOIDEEN KOYA, RESIDING AT PALLIPPARAMBAN HOUSE,
AAKKAPARAMB, KUZHIMANNA P.O., MALAPPURAM DISTRICT.**

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENT(S)/RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY, DEPARTMENT OF HOME,
GOVERNMENT SECRETARIAT ANNEX, TRIVANDRUM-695 001.**
- 2. CIRCLE INSPECTOR OF POLICE,
KONDOTTY POLICE STATION, MALAPPURAM DISTRICT-673 001.**
- 3. SUB INSPECTOR OF POLICE,
KONDOTTY POLICE STATION, MALAPPURAM DISTRICT-673 001.**
- 4. RAJAN MEMMILIYAN, AGED ABOUT 40 YEARS,
S/O.KARIYATHAN, RESIDING PALLANCHERRY,
KUZHIMANNA, MALAPPURAM DISTRICT-673 641.**
- 5. PRASAD, AGED 29 YEARS,
S/O.KARIYATHAN, RESIDING PALLANCHERRY, KUZHIMANNA POST,
MALAPPURAM DISTRICT, PIN-673641.**

**R1-R3 BY SENIOR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
R4 & R5 BY ADV. SRI.MAHBOOB ARUVEETIL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
24-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 : TRUE COPY OF THE REGISTERED SALE DEED NO.6197/2012
DT.3-12-2012 OF KONDOTTY SUB REGISTRAR OFFICE.**
- EXHIBIT P2 : TRUE COPY OF THE PROPERTY TAX RECEIPT NO.22713 DT.15-5-2013 IN
RESPECT OF PETITIONER'S PROPERTY.**
- EXHIBIT P3 : TRUE COPY OF THE POSSESSION CERTIFICATE NO.5/2013 DT.16-1-2013
ISSUED BY VILLAGE OFFICE, KUZHIMANNU TO THE PETITIONER.**
- EXHIBIT P4 : TRUE COPY OF THE BUILDING PERMIT NO.A2-1204/13 DT.11-2-2013
ISSUED BY KUZHIMANNA GRAMA PANCHAYATH TO THE PETITIONER.**
- EXHIBIT P5 : TRUE COPY OF THE PROCEEDINGS NO.H3-2221/2011 DT.16-11-2012
ISSUED BY THE ADDITIONAL TAHSILDAR ERNAD TALUK.**
- EXHIBIT P6 : TRUE COPY OF THE BASIC TAX REGISTER PERTAINING TO THE
PROPERTY IN RE SURVEY NO.292/3 IN BLOCK NO.34 OF KUZHIMANNA
VILLAGE.**
- EXHIBIT P7 : TRUE COPY OF THE REFER REPORT DT.30-7-2013 SUBMITTED BY THE
DEPUTY SUPERINTENDENT OF POLICE TO JUDICIAL FIRST CLASS
MAGISTRATE COURT, MALAPPURAM.**
- EXHIBIT P8 : TRUE COPY OF THE REPRESENTATION DT.1-10-2013 SUBMITTED BY
THE PETITIONER BEFORE THE 2ND AND 3RD RESPONDENTS.**
- EXHIBIT P9 : THE TRUE COPY OF THE PURCHASE CERTIFICATE BEARING
NO.1509/2010 DTD.9.11.2010 ISSUED BY LAND TRIBUNAL, MANJERI IN
FAVOUR OF PADMINI.**
- EXHIBIT P10: THE TRUE COPY OF THE JUDGMENT DTD.6.2.1961 OF SUB COURT
KOZHIKODE IN AS NO.114/1960.**
- EXHIBIT P11: THE TRUE COPY OF DECREE DTD.6.2.1961 OF SUB COURT, KOZHIKODE
IN AS.NO.114/1960.**
- EXHIBIT P12: THE TRUE COPY OF BASIC TAX REGISTER PERTAINING TO THE
PROPERTY IN RE-SURVEY NO.292/3 (OLD SURVEY NO.184/PART I)
MAINTAINED IN THE KUZHIMANNA VILLAGE.**
- EXHIBIT P13: THE TRUE COPY FO THE EXPLANATION DTD.23.10.2013 GIVEN B THE
PETITIONER AND OTHERS IN WRITING BEFORE THE TAHAZILDAR,
TALUK OFFICE, MANJERI. (WITH OUT ANNEXURES).**

Msv/

WP(C).No. 26071 of 2013 (H)

RESPONDENT(S)' EXHIBITS:

**EXT.R4(a): A TRUE COPY of the JUDGMENT IN OS.335/1957 OF THE HON'BLE
MUNISFF'S COURT MANJERI DTD.8.2.1960.**

**EXT.R2(b): A TRUE COPY OF THE SURVEY SKETCHED PREPARED BY THE
ADVOCATE COMMISSIONER IN OS.335/1957 OF THE MUNSIFF'S COURT,
MAJERI DTD.25.9.1957.**

**EXT.R4(c): A TRUE COPY OF THE BTR RECORDS ISSUED BY THE VILLAGE OFFICER,
KUZHIMANNA DTD.27.2.21010.**

**EXT.R4(d): A TRUE COPY OF THE MASS COMPLAINT FILED BY SC COMMUNITY,
KUZHIMANNA DTD.26.11.2012.**

**EXT.R4(e): A TRUE COPY OF THE RECEIPT ISSUED BY THE OFFICE OF THE
SUPERINTEND OF POLICE, MALAPPURAM ON RECEIVING THE
COMPLAINT DTD.26.11.2012**

**EXT.R4(f): A TRUE COPY OF THE COMPLAINT LODGED BY THE 4TH RESPONDENT
BEFORE THE KERALA STATE COMMISSION FOR SCHEDULED CASTE AND
SCHEDULED TRIBES ON 5.3.2013.**

**EXT.R4(g): A TRUE COPY OF THE HEARING NOTICE ISSUED BY THE KERALA STATE
COMMISSION FOR SCHEDULED CASTE AND SCHEDULED TRIBES
DTD.26.4.2013.**

//TRUE COPY//

P.S.TO JUDGE

Msv/

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.P.C.No.26071 of 2013

Dated this the 24th day of November 2015

J U D G M E N T

Shaffique, J

This writ petition has been filed seeking for a direction to the police to provide adequate protection to the petitioner and his employees to carry on construction of the residential building in the property having an extent of 21 cents comprised in Re-survey No.292/3 in Block No.34 of Kuzhimanna village as per Ext.P4 building permit. It is alleged that respondents 4 and 5 are threatening the petitioner and are not permitting him to construct the residential building.

2. Statement has been filed by the 3rd respondent inter alia stating that the petitioner and others trespassed into the graveyard of respondents 4 and 5 and obstructed the burial of the body of their mother and had publicly insulted them calling their caste name. Complaint has been filed by respondents 4 and 5, for which crime has been registered as Crime No.690/2013 before Kondotty police station. It is further stated that, on enquiry, it

was revealed that the aforesaid disputed land is presently under the possession of the petitioner, who had purchased the same from one Mekulampatta Padmini on 03/11/2012 and obtained patta from Manjeri Land Tribunal. According to the police, the issue involved between the parties is with regard to the right of the petitioner to construct a residential building in the property. It is also stated that the objection of respondents 4 and 5 is with reference to the right and enjoyment of the property. According to the police, dispute between the parties is of a civil nature.

3. Counter affidavit has been filed by respondents 4 and 5 wherein it is contended that the petitioner has no right to construct a building in the said property.

4. Having regard to the aforesaid factual situation, we do not think that police can interfere and resolve any civil dispute between the parties, which could be adjudicated only by a Civil court. The petitioner relies on various documents to indicate that he has got absolute right and possession in respect of the property. In case of objection regarding title and enjoyment of the property, it is for the petitioner to approach the Civil court and seek appropriate remedy. As far as police is concerned, they can

interfere only if there is a law and order situation, which apparently, has not occurred in the present case. Under such circumstances, we do not think that any direction, as sought for, can be granted in the writ petition. However, we observe that if there is any law and order situation, police shall interfere and take appropriate action, in accordance with law.

With the above observation, this writ petition is closed.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)
(sd/-)
(A.M.SHAFFIQUE, JUDGE)

True Copy

PA to Judge

jsr/24/11/2015