

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 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

WP(C).No. 24026 of 2015 (C)

PETITIONER(S):

- 1. SAROJINI, W/O KRISHNAN NAIR,
AGED 65 YEARS, ARUVIKONATHU VEEDU,
MALAEKADAVU, KODUNGANNOOR P.O.,
THIRUVANANTHAPURAM, NOW RESIDING AT
VADAKEDATHU VEEDU, MOONAMAVU,
PUNNAVALI, ANICODE PANCHAYATH,
PATHANAMTHITTA.**
- 2. KRISHNAN NAIR, AGED 80 YEARS,
S/O VELAYUDAN NAIR, ARUVIKONATHU VEEDU,
MALAEKADAVU, KODUNGANNOOR P.O.,
THIRUVANANTHAPURAM, NOW RESIDING AT
VADAKEDATHU VEEDU, MOONAMAVU,
PUNNAVALI, ANICODE PANCHAYATH,
PATHANAMTHITTA.**

**BY ADVS.SRI.BIMAL K.NATH
SRI.SREEVALSAN.V
SMT.M.K.SHIMI
SRI.D.SREENATH**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF HOME,
THIRUVANANTHAPURAM-695001.**
- 2. COMMISSIONER OF POLICE,
THIRUVANANTHAPURAM CITY-695001.**
- 3. S. I OF POLICE,
VATTIYOORKAVU POLICE STATION,
THIRUVANANTHAPURAM DISTRICT-695001.**

WP(C).No. 24026 of 2015 (C)

4. BASHA (ADDITIONAL SUB INSPECTOR OF POLICE),
RESIDING AT VAYALIKKADA, MOONNAMMOODU,
KODUNGANOOR P.O., THIRUVANANTHAPURAM-695001.
5. MOHANAN,
MULAVUKADU KUNNEL, MALAMUKAL,
VATTIYOORKAVU, THIRUVANANTHAPURAM-695001.
6. RAJIV, S/O SOMAN, ARUVIKONNAM,
MOONNAMMOODU, VATTIYURKAVU P.O.,
THIRUVANANTHAPURAM-695001.

R1 TO R3 BY SENIOR GOVT. PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1: TRUE COPY OF THE REQUEST SENT BY VATTIYURKAVU GRAMA PANCHAYATH ALONG WITH ITS ENGLISH TRANSLATION DATED 11.6.96.
- EXHIBIT P2: TRUE COPY OF THE DECREE OF OS NO.685/2007 THE HON'BLE MUNSIF COURT, THIRUVANANTHAPURAM DATED 21.1.12.
- EXHIBIT P3: TRUE COPY OF THE PROCEEDINGS OF THE AMIN IN E.P.NO.497/12 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P4: TRUE COPY OF THE JUDGMENT CMA NO.71/2013 PASSED BY THE ADDL. DISTRICT JUDGE, THIRUVANANTHAPURAM DATED 10.7.2014.
- EXHIBIT P5: TRUE COPY OF THE REPRESENTATION TO SEND TO THE 2ND AND 3RD RESPONDENTS DATED 20.7.15.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No. 24026 of 2015

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Dated this, the 7th day of August, 2015

J U D G M E N T

Shaffique, J.

Petitioners have approached this Court alleging that respondents 4 to 6 are creating obstruction in the matter relating to enjoyment of their property and is threatening the petitioners with dire consequences.

2. Petitioners alleged that they are in possession of 20 cents of property in Vattiyurkavu Village which is a puramboke land adjacent to Karamanayar river. There was an attempt on the part of the 4th respondent to encroach into the property and the petitioners filed OS No.685/2007 before the Munsiff Court, Thiruvananthapuram and the suit has been decreed in their favour by which the trespassers had been evicted with the help of Amin through the process of Court. Still further, respondents 5 and 6 are creating obstruction in the matter and hence the petitioners submitted application before the police seeking police protection and since no action was taken by the police, this writ petition is filed.

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3. Learned Government Pleader on instructions would submit that there is no difficulty for the petitioners for their ingress and egress, whereas, obstruction is created by respondents 5 and 6 in the matter of enjoyment of property.

4. Having regard to the aforesaid submission, we are of the view that police can interfere only if there is any law and order situation or if any offence is committed or there is attempt to commit offence. No such incident has been reported so far. If respondents 5 and 6 are interfering with the possession of the petitioners in respect of the property, their remedy is to approach the civil court.

In the result, we do not think it appropriate to pass any order as prayed for. We only observe that if there is any offence committed or attempt to commit offence, on the complaint of the petitioners, police shall look into the matter and do the needful. With the above observation, writ petition is closed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge