

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 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

WP(C).No. 24653 of 2015 (F)

PETITIONER(S):

- 1. SELVIN JOSE AGED 54 YEARS
S/O. M.A VAKKO, MATHIRAPPILLY HOUSE, EDAYAKKUNNAM
SOUTH CHITTOOR, KOCHI-27**
- 2. FRANCIS XAVIER
MANAGING PARTNER, XAVY JOB ASSOCIATES, EDAZHATH HOUSE
KUMBALANGI P.O, KOCHI-7**

**BY ADVS.SRI.R.RAMADAS
SRI.T.SIVADASAN**

RESPONDENT(S):

- 1. THE CITY POLICE COMMISSIONER
ERNAKULAM 682 031**
- 2. THE CIRCLE INSPECTOR OF POLICE
PALLURUTHY 682 005**
- 3. THE SUB INSPECTOR OF POLICE
THOPPUMPADY POLICE STATION, PIN 682 005**
- 4. ERNAKULAM DISTRICT CONSTRUCTION WORKERS UNION (INTUC)
REG. NO. 612/1976, LABOUR PORT, KALABHAVAN ROAD
ERNAKULAM, KOCHI 18**
- 5. ERNAKULAM DIST. CONSTRUCTION & ALLIED WORKERS UNION (INTUC).,
INTUC BHAVAN, VALANJAMBALAM, ERNAKULAM 682 016**
- 6. ERNAKULAM DISTRICT CONSTRUCTION WORKERS UNION(CITU)
KOCHI AREA COMMITTEE, REG NO 160/86, BTR BHAVAN
WELFARE ROAD, THOPPUMPADY, KOCHI 682 005**

R4 BY ADV. SRI.C.S.AJITH PRAKASH

R5 BY ADV. SRI.K.ABDUL JAWAD

R5 BY ADV. SRI.MATHEW A KUZHALANADAN

R5 BY ADV. SMT.V.KANJU

R6 BY ADV. SRI.M.A.ASIF

BY SR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 24653 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE LETTER DATED 31-07-2015 FROM THE GENERAL SECRETARY OF 5TH RESPONDENT UNION RECEIVED BY THE 2ND PETITIONER WITH ENGLISH TRANSLATION OF THE SAME

EXHIBIT P2 TRUE COPY OF THE LETTER FROM THE PRESIDENT OF THE 4TH RESPONDENT UNION RECEIVED BY THE 2ND PETITIONER WITH ENGLISH TRANSLATION OF THE SAME

EXHIBIT P3 TRUE COPY OF THE REPRESENTATION DATED 03-08-2015 BEFORE THE 3RD RESPONDENT BY THE 2ND PETITIONER WITH ENGLISH TRANSLATION OF THE SAME

EXHIBIT P4 TRUE COPY OF THE DETAILED REPRESENTATION DATED 11-08-2015 BEFORE THE RESPONDENTS 1 TO 3

5TH RESPONDENT(S)' EXHIBITS

EXT.R5(a): TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF 5TH RESPONDENT UNION.

EXT.R5(b): TRUE COPY OF THE JUDGMENT RENDERED BY THIS HON'BLE COURT IN POLICE PROTECTION JURISDICTION, IN WPC NO.21405/14.

//True Copy//

PS to Judge

Rp

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No. 24653 of 2015

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Dated this, the 15th day of September, 2015

J U D G M E N T

Shaffique, J.

Petitioners have approached this Court seeking for police protection. It is stated that the first petitioner and his wife, being the owners in possession of 13.24 Ares of land in Sy.No.549/1 of Rameswaram Village, Ernakulam District, have engaged a contractor, the 2nd petitioner, for construction of a commercial complex. Petitioners submits that on account of some internal disputes between respondents 4 to 6, they are unable to carry on with the construction. It is stated that the rivalry of respondents 4 to 6 are creating the issue, which has resulted in law and order situation. Petitioners submitted complaints to the police and since no action had been taken in the matter, this writ petition is filed.

2. Learned counsel for petitioners submits that petitioners are ready and willing to engage any person from respondents 4 to

6, but they have some internal disputes which results in the obstruction being created to the work being carried on in the said site.

3. Counter affidavit has been filed by the 4th respondent *inter alia* stating that the 5th respondent is not a registered organization and they have no right to demand that their members shall be permitted to carry on with the work. Further, it is stated that the Builders' Association has entered into an agreement with the trade unions and the agreement is being renewed from year to year. The 4th respondent is ready and willing to comply with the terms of the agreement, which has to be complied by the second petitioner as well.

4. Counter affidavit has been filed by the 5th respondent *inter alia* stating that they are also a registered organization and they have not created any obstruction as alleged. Obstruction has been created by the 4th respondent by not permitting the members of the 5th respondent to carry on with the work in the said site. Petitioners are ready and willing to engage the

members of respondents 4 to 6 and therefore, the 5th respondent has no objection in directing police protection in the matter.

5. The 6th respondent has also filed a counter affidavit *inter alia* stating that they have also entered into an agreement with the Builders' Association and they have not created any obstruction as alleged.

6. Having regard to the aforesaid factual situation and as the issue involved is regarding some interse dispute between the members of respondents 4 to 6 which cannot be resolved by the police or by the petitioners, it is for the concerned Unions to approach the Labour Officer concerned and seek appropriate directions.

7. But as far as the construction site of the petitioners are concerned, despite the agreement referred to by respondents 4 to 6, it is always open for the petitioners to engage workers of their own choice. If there is any obstruction in engaging such workers, on the complaint of the petitioners, respondents 2 and 3 are bound to take necessary action and prevent any such obstruction.

8. Accordingly, we direct respondents 2 and 3 to ensure that no obstruction is being caused to the work being carried on by the petitioners through the workers engaged by them.

Writ petition is disposed of as above.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

//True Copy//

PS to Judge

Rp

15/09/2015