

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 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

WP(C).No. 25590 of 2015 (W)

PETITIONER :

**ABRAHAM JACOB, AGED 35 YEARS,
S/O.P.A.JACOB, PATHIRAVELIL HOUSE,
ERAVIPEROOR PANCHAYAT, VALLAMKULAM MURI,
THIRUVALLA TALUK, PATHANAMTHITTA DISTRICT.**

**BY ADVS.SRI.P.HARIDAS
SRI.P.C.SHIJIN**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY SECRETARY,
DEPARTMENT OF HOME AFFAIRS,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN -695 001.**
- 2. DISTRICT POLICE CHIEF,
PATHANAMTHITTA DISTRICT, PIN- 689 645.**
- 3. THE DEPUTY SUPERINTENDENT OF POLICE,
PATHANAMTHITTA DISTRICT, PATHANAMTHITTA, PIN-689 645.**
- 4. THE CIRCLE INSPECTOR OF POLICE,
KOZHENCHERRY, PATHANAMTHITTA DISTRICT, PIN-689 645.**
- 5. THE SUB INSPECTOR OF POLICE,
KOIPURAM, PATHANAMTHITTA, PIN- 689 531.**
- 6. THAMPI CHACKO, AGED 67 YEARS,
KODUMTHARA HOUSE, NELLIMAL, THATTEKKAD MURI,
KOIPURAM VILLAGE, PATHANAMTHITTA, PIN -689 531.**

**R1 TO R5 BY SR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
R6 BY ADV.SRI.JACOB P. ALEX**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 07-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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WP(C).No. 25590 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE JUDGMENT IN O.S.NO.17/2011 DATED 07.08.2012 OF THE SUB COURT, THIRUVALLA.

EXHIBIT-P1(A): TRUE COPY OF THE DECREE IN O.S.NO.17/2011 DATED 07.08.2012 OF THE SUB COURT, THIRUVALLA.

EXHIBIT-P2: TRUE COPY OF THE JUDGMENT IN WP(C) NO.24236/2014 DATED 10.11.2014 OF THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM.

EXHIBIT-P3: PHOTOGRAPHS SHOWING THE BOULDERS DUMPED IN FRONT OF THE WORK SHOP.

EXHIBIT-P4: TRUE COPY OF THE COMPLAINT DATED 24.07.2015 BY THE PETITIONER.

EXHIBIT-P4(A): TRUE ENGLISH TRANSLATION OF EXHIBIT-P4.

EXHIBIT-P5: TRUE COPY OF THE PHOTOGRAPHS SHOWING THE MISCHIEF'S OF THE 6TH RESPONDENT.

EXHIBIT-P6: THE TRUE COPY OF THE COMPLAINT DATED 03.08.2015 SUBMITTED BY THE PETITIONER TO 5TH RESPONDENT

EXHIBIT-P7: TRUE COPY OF THE COMPLAINT DATED 02.08.2015 MADE BY THE PETITIONER BEFORE THE 2ND RESPONDENT, WITH COPIES TO RESPONDENTS NOS.3,4 AND 5.

RESPONDENT(S)' 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. 25590 of 2015

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Dated this, the 7th day of September, 2015

J U D G M E N T

Shaffique, J.

Petitioner has approached this Court seeking for police protection *inter alia* contending that he has taken on lease certain item of property from 6th respondent and is functioning a workshop. Already the parties have approached the Civil Court and the petitioner had obtained an injunction restraining the 6th respondent from interfering with the peaceful possession and enjoyment of the property. The contention urged by the petitioner is that despite the order of injunction, the 6th respondent has dumped boulders on the pathway leading to the leasehold premises, on account of which the petitioner is unable to utilize the property and the functioning of the workshop has been obstructed.

2. Learned counsel appearing for the 6th respondent would submit that the 6th respondent has not obstructed the

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petitioner in any manner. The premises in occupation of the petitioner forms part of a larger area belonging to the 6th respondent and for the purpose of making some constructions, petitioner had to unload granite stones. Since this is the only road leading to the property, granite stones had to be unloaded on the road which had to be manually taken to the site where the construction is going on. Complaining of the aforesaid attitude, petitioner had already approached the Civil Court alleging violation of the order of injunction and an Advocate Commissioner has already been deputed. That being so, there was no reason for the petitioner to approach this Court. It is also stated by the learned counsel that no obstruction is caused as matters stand now and the boulders unloaded had already been removed.

3. Having regard to the aforesaid factual situation, we are of the view that since the matter is pending before the Civil Court, it is always open for the parties to agitate the rights before the said court. Further, we observe that if any obstruction is being caused to the petitioner's right to use the pathway in question, it

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shall be open for the petitioner to remove the same, if necessary,
with the assistance of the police.

With the above observation, this writ petition is closed.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp

//True Copy//

PS to Judge