

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 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

WP(C).No. 25975 of 2015 (V)

PETITIONER(S) :-

ARUNKUMAR, S/O.LATE MURALEEDHARA KURUP,
RESIDING AT PADMAVILASAM BUNGALOW,
INDIRA NAGAR, PEROORKKADA,
THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.V.G.ARUN
SRI.ANOOP BHASKAR

RESPONDENT(S) :-

1. DEPUTY SUPERINTENDENT OF POLICE,
NEYYATTINKARA, THIRUVANANTHAPURAM DISTRICT - 695 121.
2. SUB INSPECTOR OF POLICE,
PARASSALA POLICE STATION,
THIRUVANANTHAPURAM DISTRICT - 695 001.
3. ICICI BANK, HEAD OFFICE,
REPRESENTED BY COLLECTION MANAGER,
NAGARCOVIL, KANYAKUMARI DISTRICT - 621 703
TAMIL NADU STATE.
4. ICICI BANK, HEAD OFFICE,
REPRESENTED BY AUTHORISED MANAGER,
STATUTE, THIRUVANANTHAPURAM - 695 001.
5. PADMAKUMARI, D/O.KOMALANGI AMMA,
CRRA 89, VADITHOPPU, NEAR NEYYATTINKARA BUS STAND,
KADAVATTARAM DESOM, NEYYATTINKARA - 695 121.

R1 & R2 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
R3 & R4 BY SRI.LAL K.JOSEPH, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1 :- TRUE COPY OF SALE CERTIFICATE ISSUED BY HDFC DATED 27.8.2008 REGISTERED AS DEED No.1268 OF 2008 OF PARASSALA SUB-REGISTRY.

EXT.P2 :- TRUE COPY OF THE JUDGMENT OF THE SUB COURT NEYYATTINKARA IN A.S.No.149 OF 2010 DATED 27.10.2013.

EXT.P3 :- TRUE COPY OF THE RENT AGREEMENT DATED 13.2.2015 EXECUTED BY MR.J.JAYACHANDRAN IN FAVOUR OF SMT.LEELAMMA WITH TRANSLATED COPY.

EXT.P4 :- TRUE COPY OF THE PETITION DATED 21.6.2015 SUBMITTED BEFORE THE 2ND RESPONDENT WITH TRANSLATED COPY.

EXT.P5 :- TRUE COPY OF THE ACKNOWLEDGMENT RECEIPT DATED 21.6.2015 ISSUED BY THE 2ND RESPONDENT.

EXT.P6 :- TRUE COPY OF THE PETITION DATED 21.6.2015 SUBMITTED BEFORE THE 1ST RESPONDENT WITH TRANSLATED COPY.

RESPONDENT'S EXHIBITS :- NIL.

//TRUE COPY//

P.A. TO JUDGE

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.P.(C) No.25975 of 2015

Dated this the 21st day of August 2015

J U D G M E N T

Shaffique, J.

The petitioner has approached this Court seeking police protection in the matter relating to the threat of forceful eviction from the property belonging to him having an extent of 4.45 Ares and a building therein. According to him, he has purchased the said property in an auction conducted by the HDFC Bank. It is stated that later, the ICICI Bank claimed right in respect of the property. It is further stated that the petitioner's father had filed a suit as O.S.No.24 of 2009 before the Munsiff Court, Neyyattinkara. Later, the said suit had been dismissed as per judgment dated 29.5.2010. Thereafter the petitioner along with his mother and sister challenged the said decree and judgment before the Sub Court, Neyyattinkara in A.S.No.149 of 2010, in which, the ICICI Bank is also a party. The said appeal was decreed as per judgment dated 27.2.2013. The decretal portion of the above judgment reads as under :-

“Appeal is allowed. The title and possession of the plaintiffs over the plaint C schedule item number 1 and

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2, which is shown by the Commissioner as ABCDELHIJKA plot is declared and defendants are restrained from doing any act affecting the right and possession of plaintiffs over plaint C schedule item number 1 & 2 properties and proceed against it for realizing the loan taken by the 1st defendant and her husband. Ext.C1(a) Plan will form part of the decree. Considering the relationship between the parties no order as to cost.”

The petitioner submits that he has given the above property to a tenant and certain officials of the ICICI Bank had approached the tenant and called upon him to vacate the premises. The petitioner apprehends that the tenant may be forcibly evicted from the property and hence, he had approached the police seeking necessary protection. Since no action had been taken by the police, this writ petition has been filed by him.

2. Learned Standing Counsel appearing for the ICICI Bank on instructions would submit that they would only comply with the direction issued by the civil court in the matter.

3. Learned Government Pleader on instructions would submit that the police had enquired into the complaint and it was noticed that certain officials of the ICICI Bank had visited the above premises and had taken photographs only to see the property and they have not called upon the tenant to vacate the premises.

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4. Learned Standing Counsel appearing for the ICICI Bank would submit that they intent to file appeal against the aforesaid judgment in A.S.No.149 of 2010.

5. Having regard to the aforesaid factual situation, we do not think that the apprehension expressed by the petitioner is well founded. Since the ICICI Bank is a party to A.S.No.149 of 2010, they could take possession of the property only in accordance with law and since the issue is covered by the decree of the civil court, we do not think that the Bank will take forceful possession of the property.

6. Under such circumstances, we do not think that any direction as sought for is required to be passed in this writ petition. We only observe that if there is any such eventuality, it is open for the petitioner to approach the police, who shall look into the matter and do the needful.

With the above observation, this writ petition is closed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE