

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 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

WP(C).No. 26328 of 2015 (M)  
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PETITIONER :  
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KERALA STATE BEVERAGES  
(MANUFACTURING & MARKETING) CORPORATION , IMITED  
P.B.NO.2263, SASTHAKRIPA OFFICE COMPLEX  
SASTHAMANGALAM P.O., TRIVANDRUM-695010  
REPRESNETED BY ITS REGIONAL MANAGER  
CENTRAL-ERNAKULAM MR.G.MOHAN.

BY ADV. SRI.C.S.AJITH PRAKASH

RESPONDENTS :  
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1. STATE POLICE CHIEF  
POLICE HEADQUARTERS, THIRUVANANTHAPURAM-695001.
2. THE SUPERINTENDENT OF POLICE (RURAL), OFFICE OF THE SUPERINGENDENT  
OF POLICE, ALUVA-683101.
3. THE CIRCLE INSPECTOR OF POLICE  
KUNNATHUNADU, PATTIMATTOM, ERNAKULAM DISTRICT-683562.
4. THE SUB INSPECTOR OF POLICE  
KUNNATHUNADU, PATTIMATTOM, ERNAKULAM DISTRICT-8356.
5. K.U.THOMAS  
S/O ULAHANNAN, KURIKKAVEEPANATHU, KIZHAKKAMBALAM KARA  
KIZHAKKAMBALAM VILLAGE, ERNAKULAM DISTRICT-683612.
6. SABU M.JACOB  
MEKKAMKUNNEL HOSUE, VILANGU PO, KIZHAKKAMBALAM.683501.
7. BOBY M. JACOB  
MEKKAMKUNNEL HOSUE, VILANGU PO, KIZHAKKAMBALAM.68364.

R1 TO R4 BY SR.GOVERNMENT PLEADER, SRI.C.R. SYAM KUMAR  
R5 BY ADV. SRI.P.THOMAS GEEVERGHESE  
R5 BY ADV. SRI.S.SREEKUMAR (SR.)  
R6 & R7 BY ADVS. SRI.B.RAMAN PILLAI (SR.)  
SRI.M.SUNILKUMAR  
SRI.SUJESH MENON V.B.  
SRI.T.ANIL KUMAR  
SRI.THOMAS ABRAHAM (NILACKAPPILLIL)  
SRI.M.VIVEK  
SRIA.RAJESH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-12-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1: A TRUE COPY OF THE EXCISE LICENSE ISSUED BY THE EXCISE DEPARTMENT.

EXHIBIT P2: A TRUE COPY OF THE ORDER OF THE RENT CONTROL COURT DATED 28.7.2015.

EXHIBIT P3: A TRUE COPY OF THE I.A.NO.1462 OF 2015 DATED 10.8.2015.

EXHIBIT P3(A): TRUE ENGLISH TRANSLATION OF EXT.P3.

EXHIBIT P4: A TRUE PHOTOGRAPH OF THE INCIDENT SHOWING THE DUMPING OF GRANITE STONE IN THE PREMISES AND BLOCKING OF THE GATE AND THE NATURE OF FENCING BY THE GRANITED STONE.

EXHIBIT P5: A TRUE COPY OF THE PETITION DATED 29.8.2015.

EXHIBIT P5(A): TRUE ENGLISH TRANSLATION OF EXT.P5.

EXHIBIT P6: A TRUE COPY OF THE PETITION SEEKING POLICE PROTECTION DATED 30.8.2015 SUBMITTED BEFORE THE 3RD RESPONDENT.

EXHIBIT P6(A): TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P6.

EXHIBIT P7: A TRUE COPY OF THE PETITION SEEKING POLICE PROTECTION DATED 30.8.2015 SUBMITTED BEFORE THE 4TH RESPONDENT.

EXHIBIT P7(A): TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P7.

EXHIBIT P8 : TRUE COPY OF THE COMMON JUDGMENT IN WP(C) 16696/14 AND WP(C) 14924/2014 DATED 01.07.2014.

EXHIBIT P9 : TRUE COPY OF THE INTERIM ORDER IN WPC. 27483/2015 DATED 11.09.2015.

EXHIBIT P10 : TRUE COPY OF THE JUDGMENT IN WPC.27817/2015 DATED 15.09.2015.

EXHIBIT P11 : TRUE COPY OF THE PHOTOGRAPH.

RESPONDENTS' EXHIBITS :

EXT.R5(A) : TRUE COPY OF JUDGMENT IN W.A. No.628/2010 DATED 25TH OCTOBER, 2011.

EXT.R5(B) : TRUE COPY OF LETTER NO.3809/14 DATED 3.7.2014 ISSUED BY THE SECRETARY, KIZHAKKAMBALAM GRAMA PANCHAYAT.

EXT.R5(C) : TRUE COPY OF BUILDING TAX RECEIPTS DATED 4.2.2015 ISSUED BY THE KIZHAKKAMBALAM GRAMA PANCHAYAT IN FAVOUR OF 5TH RESPONDENT.

EXT.R5(D) : PHOTOGRAPH OF THE NEWLY CONSTRUCTED COMPOUND WALL OF THE 5TH RESPONDENT TAKEN ON 28TH SEPTEMBER 2015.

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EXT.R5(E) : PHOTOGRAPHS OF ALTERNATE ACCESS AVAILABLE TO THE PETITIONER, TAKEN  
ON 28TH SEPTEMBER, 2015.

EXT.R5(F) : PHOTOGRAPH OF POLICE DEMOLISHING THE COMPOUND WALL OF THE  
5TH RESPONDENT ON 30TH SEPTEMBER, 2015.

/TRUE COPY/

PA TO JUDGE

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

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W.P.(C) No. 26328 OF 2015  
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Dated this the 8<sup>th</sup> day of December, 2015

**JUDGMENT**

**Shaffique, J.**

This writ petition has been filed by the Kerala State Beverages (Manufacturing & Marketing) Corporation Limited seeking for police protection alleging that obstruction is created by respondents 5 to 7 in the matter relating to the functioning of retail outlet for which the petitioner has valid license from the Excise Commissioner.

2. The 5<sup>th</sup> respondent has filed counter affidavit stating that though the 5<sup>th</sup> respondent had given the property on lease to the petitioner, the existence of the FL shop is creating substantial nuisance to the petitioner as well which was not contemplated at the relevant time. The 5<sup>th</sup> respondent had already filed a petition before the Rent Control Court for evicting the petitioner which is pending consideration.

3. Respondents 6 and 7 have also filed counter affidavit *inter alia* stating that they have not physically

obstructed the petitioner in any manner, whereas they have started a project by name "Twenty-20 Kizhakkambalam" and doing social activities. They are conducting propaganda as part of initiating charitable and social activities.

4. An interim order had already been passed by this Court on 31.08.2015 directing the police to maintain law and order situation. Learned Senior Counsel for the 5<sup>th</sup> respondent would submit that the Panchayat has issued a stop memo which is under challenge in a writ petition and petitioner will have to comply with the directions issued by the Panchayat as well.

5. Taking into consideration the aforesaid factual situation we only observe that if there is any law and order situation in the matter relating to the functioning of the outlet, police shall ensure maintenance of law and order. However, it is made clear that this order shall not preclude the authorities concerned to pass appropriate orders against the functioning of

the retail outlet and the said order shall be complied with by the police as well.

The Writ Petition is disposed of as above.

**Ashok Bhushan,  
Chief Justice.**

**A.M. Shaffique,  
Judge.**