

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

WP(C).No. 26368 of 2015 (U)

PETITIONER :

**SHIHAB.E.M., S/O.MOIDEENKUTTY,
ERAMANGALATH HOUSE, ERIYAD.P.O.,
KODUNGALLUR, THRISSUR DISTRICT-680 666**

**BY ADVS.SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA
SMT.D.S.THUSHARA
SRI.H.PRAVEEN (KOTTARAKARA)**

RESPONDENT(S):

- 1. CIRCLE INSPECTOR OF POLICE,
KODUNGALLUR, THRISSUR DISTRICT-680 666**
- 2. SUB INSPECTOR OF POLICE, KODUNGALLUR,
THRISSUR DISTRICT-680 666**
- 3. UNNIKRISHNAN, S/O.NARAYANAN, ANDURUTHI,
ERiyAD.P.O., KODUNGALLUR, THRISSUR DISTRICT-680 666**

R1 & R2 BY SR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).NO.26368/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE STOP MEMO DATED 26/5/2014 ISSUED BY THE VILLAGE OFFICER WITH ENGLISH TRANSLATION.**
- P2 COPY OF THE NO OBJECTION CERTIFICATE DATED 24/10/2014 WITH ENGLISH TRANSLATION**
- P3 COPY OF THE REPRESENTATION SUBMITTED BEFORE THE VILLAGE OFFICER DATED 27/11/2014 WITH ENGLISH TRANSLATION**
- P4 COPY OF THE COMPLAINT DATED 27/8/2015 AND ACKNOWLEDGMENT RECEIPT WITH ENGLISH TRANSLATION.**
- P5 COPY OF THE CERTIFICATE ISSUED BY THE AGRICULTURAL OFFICER, ERIYAD DATED 3/9/2015.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

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

W.P.(C)No.26368 of 2015

Dated this the 3rd day of December, 2015.

J U D G M E N T

SHAFFIQUE, J.

The petitioner has approached this Court seeking police protection alleging obstruction from the 3rd respondent in the matter relating to formation of a path way to his property. According to him, his property is having an extent of 1.11 acres and from the Panchayat road, he had already constructed a culvert and from the culvert, he requires the path way within his property itself. The allegation is that the 3rd respondent was causing unnecessary obstruction, though the petitioner had already obtained NOC from the Grama Panchayat as per Ext.P2 dated 24.10.2014.

2. By Ext.P2, the Panchayat had given NOC to the petitioner to form a road in the property situated in Survey Nos.1161/1 and 1163/2 without obstructing the water flow.

Though notice was served on the 3rd respondent, there is no appearance on his behalf.

3. The learned Senior Government Pleader submits that the police cannot identify the nature and extent of the property and that, whether the construction is being made after complying with all the legal formalities or not.

4. The petitioner has produced an additional document as Ext.P5, which is a certificate issued by the Agricultural Officer stating that the property of the petitioner is neither paddy land or wet land as per the Draft data bank records maintained by the Local Level Monitoring Committee. The facts being so, we are of the view that, the 3rd respondent at any rate has no right to physically prevent the petitioner from constructing the path way. However, taking into account the factual scenario involved in the matter, the petitioner will have to comply with the restrictions imposed in terms of Ext.P2 and the construction work shall be done under the supervision of the concerned Agricultural Officer

of the locality.

In the result, this writ petition is disposed of as under :

- i. If there is any obstruction from the 3rd respondent or his men in the matter relating to the construction of the pathway by the petitioner to his property in terms of Ext.P2, the 2nd respondent shall ensure maintenance of law and order.
- ii. Any such construction shall be made by the petitioner under the supervision of the Agricultural Officer of the locality.

Sd/-

**ASHOK BHUSHAN,
CHIEF JUSTICE.**

Sd/-

**A.M.SHAFFIQUE,
JUDGE.**

ami/

//True copy//

P.A. to Judge