

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 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

WP(C).No. 30227 of 2012 (C)

PETITIONER:

**JOSE JAMES, S/O.M.G.JAMES,
AGED 50 YEARS,PARTNER,
CITY GLASS HOUSE GODOWN,
VALLIKADU MAALI HOUSE,
MANNAM JUNCTION, CHATHANADU,
ALAPPUZHA DISTRICT.**

BY ADV. SRI.V.SANTHARAM

RESPONDENT(S):

- 1. THE DISTRICT SUPERINTENDENT OF POLICE,
ALAPPUZHA.**
- 2. THE CIRCLE INSPECTOR OF POLICE,
ALAPPUZHA NORTH POLICE STATION,
ALAPPUZHA.**
- 3. THE SUB INSPECTOR OF POLICE,
ALAPPUZHA NORTH POLICE STATION,
ALAPPUZHA.**
- 4. RENJITH, S/O.CHANDRAMOHAN,
CHIRAYIL PARAMBU(PUTHEN PARAMBU),
POONTHOPPU WARD, ALAPPUZHA-688006,
(CONVENOR, CITU, CHATHANADU UNIT,
ALAPPUZHA).**
- 5. GOPAN, S/O.GOPI, NIKARTHIL,
POONTHOPPU WARD, NEAR KOMMADI BRIDGE,
ALAPPUZHA-688006, (CONVENOR B.M.S.UNION,
CHATHANADU UNIT, ALAPPUZHA)**

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6. JAYAN, S/O.VASAVAN, CONVENOR,
I.N.T.U.C.UNION CHATHANADU UNIT,
POONTHOPPU, ALAPPUZHA-688006.

*ADDL.R7 TO R9 IMPEADED

7. THE DISTRICT LABOUR OFFICER,
ALAPPUZHA - 688 013.
8. THE ASSISTANT LABOUR OFFICER,
SECOND CIRCLE, ALAPPUZHA.
9. THE KERALA HEADLOAD WORKERS
WELFARE BOARD,
ALAPPUZHA DISTRICT COMMITTEE,
ALAPPUZHA,
REPRESENTED BY ITS CHAIRMAN.

ADDL. R7 TO R9 ARE IMPEADED AS PER ORDER
DATED 20.6.2013 IN IA.8260/2013.

R1 TO R3, R7 & R8 BY SENIOR GOVT. PLEADER SRI.C.R.SYAMKUMAR
R4, R5 & R6 BY ADV. SRI.R.AZAD BABU
R9 BY ADV. SRI.C.S. AJITH PRAKASH, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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APPENDIX

PETITIONER(S) EXHIBITS:

- EXT-P1 : TRUE COPY OF THE AGREEMENT DATED 1.10.2011 EXECUTED BETWEEN THE PETITIONER AND HIS FATHER
- EXT-P2 : TRUE COPIES OF THE RECEIPTS DATED 13.4.2012 AND 16.5.2012 ISSUED BY THE ALAPPUZHA MUNICIPALITY
- EXT-P3 : TRUE COPIES OF THE LABOUR CARD OF PETITIONER'S EMPLOYEES.
- EXT-P4 : TRUE COPY OF THE COMPLAINT DATED 11.12.2012 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT-P5 : TRUE COPY OF THE PARTNERSHIP DEED DATED 18.11.1996.
- EXT-P6 : TRUE PHOTO GRAPHS SHOWING THE LOADING AND UNLOADING WORK USING THE CRANE.
- EXT-P7 : TRUE COPY OF THE LETTER DATED 5.2.2013 ISSUED BY THE DISTRICT LABOUR OFFICER, ALAPPUZHA.
- EXT-P8 : TRUE COPY OF THE REPRESENTATION OF THE PETITIONER SUBMITTED BEFORE THE 2ND RESPONDENT DATED 5.2.2013.
- EXT-P9 : TRUE COPY OF THE CERTIFICATE OF REGISTRATION DATED 21.6.2007 ISSUED BY THE COMMERCIAL TAX DEPARTMENT, KERALA.
- EXT-P10 : TRUE COPY OF THE LETTER DATED 9.12.2011 ISSUED TO THE COMMERCIAL TAX DEPARTMENT, KERALA BY THE PETITIONER.
- EXT-P11 : TRUE COPY OF THE CERTIFICATE OF REGISTRATION IN FORM NO.1A DATED 12.3.2013, ALONG WITH ANNEXURE, ISSUED BY THE COMMERCIAL TAX DEPARTMENT, KERALA.
- EXT-P12 : TRUE COPY OF THE LETTER DATED 12.3.2013 ISSUED BY THE M/S.B.S.S. AND CO., CHARTERED ACCOUNTANTS, THONDANKULANGARA.
- EXT-P13 : TRUE COPY OF THE CERTIFICATE OF OPERATIONAL INSTRUCTIONS DATED 11.3.2013 ISSUED BY THE CANARA BANK.
- EXT-14 : TRUE COPY OF THE LEASE AGREEMENT DATED 1.6.2012.
- EXT-P15 : TRUE COPY OF THE SERVICE BILL DATED 15.10.2012 ISSUED BY MS/.GAYATHRI ENGINEERING WORKERS ALONG WITH TEST CERTIFICATE.
- EXT-P16 : TRUE COPY OF THE REGISTRATION LETTER OF MR.RAFEEK DATED 10.2.2013.

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EXT-P17 : TRUE COPY OF THE REPORT DATED 6.2.2013 OF THE ASSISTANT
LABOUR OFFICER, SECOND CIRCLE, ALAPPUZHA WITH ENGLISH
TRANSLATION.

RESPONDENTS' EXHIBITS:

EXT. R4(A) : MEMORANDUM OF SETTLEMENT ENTERED INTO BETWEEN THE
PETITIONER AND THE UNIONS DATED 20.7 .2012.

EXT. R4(B) : NOTICE ISSUED BY THE DEPUTY LABOUR OFFICER, ALAPPUZHA TO
THE PETITIONER, AND OTHERS DATED 11.2.2013.

//TRUE COPY//

P.S. TO JUDGE

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ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.P.C.No.30227 of 2012

Dated this the 24th day of November 2015

J U D G M E N T

Shaffique, J

Petitioner has approached this Court seeking police protection in the matter relating to loading and unloading work being carried out by the petitioner in his godown under the name 'City Glass House Godown' at Mannam Junction, Chathanadu, Alappuzha District. According to the petitioner, glass and plywood materials are being unloaded through mechanical devices in the said godown which is being obstructed by respondents 4 to 6 and their men. It is argued that being not a scheme covered area and since the petitioner is using mechanical devices for doing loading and unloading work, that too in respect of materials which are brittle namely glass and similar products, respondents 4 to 6 cannot insist for the loading and unloading work. Petitioner had filed a complaint before the police seeking police protection, but no action has been taken in the matter. Hence the petitioner has approached this Court.

2. This Court had already granted an interim order on 04/04/2013 directing the police to provide adequate police protection.

3. Learned counsel for the additional 9th respondent submits that the area where the godown of the petitioner is situated is not a scheme covered area. Learned counsel for respondents 4 to 6, however, would submit that the place of business of the petitioner is a scheme covered area. But the fact remains that presently the request of the petitioner is for the loading and unloading work carried out in the godown, which, according to the learned counsel for the additional 9th respondent, is not a scheme covered area.

4. Under such circumstances, respondents 4 to 6 cannot obstruct the work being carried out by the petitioner by employing petitioner's own employees or by using mechanical devices. The facts being so, 3rd respondent is bound to ensure maintenance of law and order and also to ensure that no obstruction is being caused to the petitioner in carrying out loading and unloading work in his business premises.

5. We therefore direct respondents 1 to 3 to provide necessary protection to the petitioner for carrying out the said loading and unloading work in his business premises, that is by engaging his own workers or with mechanical devices.

This writ petition is disposed of as above.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)
(sd/-)
(A.M.SHAFFIQUE, JUDGE)

jsr/24/11/2015

True Copy

PA to Judge