

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 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937HH

WP(C).No. 26516 of 2015 (L)

PETITIONER(S) :-

1. INDIRA K.S, D/O.LATE KANTHIMATHY
RETD. CENTRAL GOVERNMENT EMPLOYEE, LEKSHMI VILAS
NORTH OF VALIYA VEEDU TEMPLE
THIRUNARAYANAPURAM DESOM, OTTOOR VILLAGE
THIRUVANANTHAPURAM DISTRICT.
2. LALITHAMBIKA
D/O.LATE PADMAVATHY, RETD. PROFESSOR, DEVAYANOM
PATTOM, THIRUVANANTHAPURAM DISTRICT.
3. K.S.BIJU
S/O.LATE SREEDHARAN, RESIDING AT SNEHA VEEDU
MARKET ROAD, ATTINGAL, CHIRAYINKEEZHU TALUK
THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.M.R.RAJESH
SRI.K.M.ALEXANDER

RESPONDENT(S) :-

1. THE DEPUTY SUPERINTENDENT OF POLICE, ATTINGAL
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE
ATTINGAL, PIN: 695 101.
2. THE CIRCLE INSPECTOR OF POLICE
VARKALA, OFFICE OF THE CIRCLE INSPECTOR OF POLICE
MAITHANAM, VARKALA, PIN: 695 141.
3. SUB INSPECTOR OF POLICE
VARKALA POLICE STATION, MAITHANAM, VARKALA
PIN - 695 141.
4. B.S.PRASAD GANDHI
ADVOCATE, REVATHY BUILDING, VACHIYOOR P.O.
THIRUVANANTHAPURAM - 695 102.
5. K.S.JOSE RAJ
DEVIKRIPA, PUTHUSSERY MUKKU P.O., KALLAMBALAM
THIRUVANANTHAPURAM DISTRICT - 695 605.

6. K.S.PRAKASH

SANATHANAM, MAMOM, PARAYATHUKONAM P.O.
THIRUVANANTHAPURAM - 695 104.

7. JAYA BABU,

SREELEKSHMI, PANAYIL KADAVU, VAKKOM
VAKKOM P.O., THIRUVANANTHAPURAM DISTRICT - 695 308.

R4-R7 BY ADV. SRI.D.PEETHAMBARAN

SMT.E.SHEENA

R1 TO R3 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

jvt

WP(C) .No. 26516 of 2015 (L)

APPENDIX

PETITIONER(S) ' EXHIBITS :-

EXT.P1:THE TRUE COPY OF THE MINUTES OF THE MEETING DATED
20/1/2013.

EXT.P1(a): THE TRUE ENGLISH TRANSLATION OF EXT.P1.

EXT.P2: THE TRUE COPY OF THE MINUTES OF THE MEETING HELD ON
15/8/2015.

EXT.P2(a): THE TRUE ENGLISH TRANSLATION OF EXT.P2.

EXT.P3: THE TRUE COPY OF THE COMPLAINT DATED 1/9/2015.

EXT.P4: TRUE COPY OF THE JUDGMENT DATED 17.8.15 IN W.P.(C)
No.24871/2015 OF THIS HON'BLE COURT.

EXT.P5: TRUE COPY OF THE PETITION FILED BY SHRI.PRASAD GANDHI
BEFORE THE CHIEF MINISTER OF KERALA.

EXT.P5(a): TRUE ENGLISH TRANSLATION OF EXT.P5.

EXT.P6: TRUE COPY OF THE NOTICE DATED 7.9.2015 ISSUED BY
ADV.A.S.VIJAYAKUMAR TO THE 2ND PETITIONER.

EXT.P6(a): TRUE ENGLISH TRANSLATION OF EXT.P6.

RESPONDENT(S) ' EXHIBITS :- NIL

//TRUE COPY//

P.A. TO JUDGE

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

W.P.(C) No.26516 of 2015

Dated this the 11th day of September 2015

J U D G M E N T

Shaffique, J.

The petitioners have approached this Court seeking police protection. It is stated in the writ petition that the petitioners are the Committee members engaged for the purpose of completing the works regarding the 'Puna Prathishta' (Re-Installation) of Nellikode Valiyaveedu Sree Bhagavathy Temple. It is stated that the temple is a family temple and the petitioners as well as respondents 4 to 7 and others are the members of the family. The petitioners narrate the circumstances under which, the entire structure of the temple has been dismantled and the Deity is required to be shifted. When the construction has reached its final stage and the stage of paving of copper sheets over the wooden roof was to commence, there had been some issues relating to misappropriation of funds.

2. It is stated that the 4th respondent along with respondents 5 to 7 have unilaterally prepared plans for paving the copper sheets using the chitty amount projecting themselves as

the sponsors for the paving of copper sheets. A notice to this effect was also published and distributed by them. It is stated that a meeting of the reconstruction committee and other members of the family was held on 15.8.2015, as the above movement of respondents 5 to 7 was objected to by all other family members. It was unanimously decided in the above said meeting to entrust the responsibility of carrying out the remaining works and to complete the reconstruction of the temple to a committee consisting of five members, who represent the five families, who undertook the responsibility for the reconstruction initially. The petitioners submit that on 29.8.2015, respondents 4 to 6 came to the temple premises and obstructed the workers involved in the curing of the teak wooden planks and wooden slabs on the roof of the temple. The petitioners apprehend that further obstruction might be caused by respondents 4 to 7 in the matter relating to construction being carried out by the petitioners. Though complaint was given to the police seeking appropriate police protection, no action had been taken by the police and therefore, the writ petition has been filed.

3. The petitioner has also filed I.A.No.13122 of 2015 for producing additional documents.

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4. Heard the learned counsel for the petitioners as well as the learned counsel appearing for respondents 4 to 7 and the learned Government Pleader appearing on behalf of respondents 1 to 3.

5. Learned counsel appearing for respondents 4 to 7 submits that there is some dispute between the parties in relation to construction being made as there are allegations and counter allegations.

6. Learned Government Pleader submits that the issue relates to construction of a temple and the dispute is between two groups.

7. Having regard to the aforesaid factual situation, we are of the view that since the dispute between the petitioners as well as respondents 4 to 7 is in the matter relating to construction of a temple, we cannot adjudicate on such issues and come to a definite finding nor can the police interfere in such issues. It is for the parties either to settle the dispute between themselves or to approach the appropriate civil court and to obtain necessary orders. Under such circumstances, if the petitioners feel that they alone have the right to reconstruct and if it is obstructed by any

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group, who are members of the same family, their remedy is to approach the civil court and obtain appropriate orders.

Under such circumstances, we do not think that any order as prayed for can be issued in this writ petition. Accordingly, this writ petition is dismissed.

**Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE**

**Sd/-
A.M. SHAFFIQUE
JUDGE**