

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

WP(C).No. 26877 of 2014 (H)

PETITIONER(S):

PODIYAN S., AGED 63 YEARS
S/O.AYYAN, THANISH BHAVAN, KALANJUR MURI,
KALANJUR VILLAGE, ADOOR TALUK, PATHANAMTHITTA.

BY ADV. SRI.N.N.SASI

RESPONDENT(S):

1. ACHANKUNJU, AGED 48 YEARS
MUTTATHU VEEDU, KONNELAYYAM, KALANJUR P.O
ADOOR TALUK - 689 694, PATHANAMTHITTA
2. AMBILI SASI, AGED 40 YEARS
EETTIVILAYIL HOUSE, KONNELAYYAM, KALANJUR P.O
ADOOR TALUK - 689 694, PATHANAMTHITTA.
3. AANANDAN, AGED 46 YEARS
EETTIVILAYIL HOUSE, KONNELAYYAM, KALANJUR P.O
ADOOR TALUK - 689 694, PATHANAMTHITTA.
4. NARAYANAN, AGED 48 YEARS,
S/O.CHANDRAN, EETTIVILAYIL THAZHETHIL, KONNELAYAM
KALANJUR P.O, ADOOR TALUK - 689 694, PATHANAMTHITTA.
5. VIJAYAMMA, AGED 42 YEARS
EETTIVILAYIL HOUSE, KONNELAYYAM, KALANJUR P.O
ADOOR TALUK - 689 694, PATHANAMTHITTA.
6. PODIPENNU, AGED 59 YEARS
EETTIVILAYIL HOUSE, KONNELAYYAM, KALANJUR P.O
ADOOR TALUK - 689 694, PATHANAMTHITTA.
7. SUB INSPECTOR OF POLICE
KODAL, KODAL P.O, PATHANAMTHITTA 689 693.

PJ

....2/-

WP(C).No. 26877 of 2014 (H)

**8. CIRCLE INSPECTOR OF POLICE
KONNI, KONNI P.O, PATHANAMTHITTA 689 691.**

**9. THE DISTRICT POLICE CHIEF
PATHANAMTHITTA DISTRICT, PATHANAMTHITTA 689 645.**

**R4&6 BY ADVS. SRI.P.VIJAYAKUMAR
SRI.C.R.REGHUNATHAN
SRI.M.VASHIM
SRI.B.HARRYLAL
SRI.R.BALAKRISHNAN
SRI.SUVIN.R.MENON
R7-9 BY SENIOR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 - TRUE COPY OF JUDGMENT IN OS NO.241/05 DTD.18-11-08

EXT.P2 - TRUE COPY OF ORDER IN E.P.NO.63/10 DATED 10-4-13

EXT.P3 - TRUE COPY OF JUDGMENT IN OPC.2140/13

EXT.P4 - TRUE COPY OF EA NO.51/13 IN EP NO.63/10

EXT.P5 - TRUE COPY OF COMPLAINT TO S.I.OF POLICE, KOODAL DTD.6-10-14

EXT.P6 - TRUE COPY OF COMPLAINT TO C.I. OF POLICE, KONNI

EXT.P4(A)- TRUE TRANSLATION OF EXT.P4

EXT.P5(A) - TRUE TRANSLATION OF EXT.P5

EXT.P6(A) - TRUE TRANSLATION OF EXT.P6

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

**ASHOK BHUSHAN, Ag.CJ
& A.M.SHAFFIQUE, J.**

*** * * * ***

W.P.C.No.26877 of 2014

Dated this the 9th day of January 2015

J U D G M E N T

Shaffique,J

This writ petition is filed seeking for a direction to respondents 7 to 9 to provide police protection to the petitioner to enclose the southern boundary of his property by restoring/reconstructing the same in order to comply with the judgment and decree in Ext.P3.

2. The allegations raised in the writ petition would disclose that the petitioner had obtained a decree in O.S.No.241/05 by which defendants 1, 3, 4 and 5 therein have been restrained by permanent prohibitory injunction from trespassing into the scheduled property and also from destroying the boundary wall or annexing any portion of the plaint schedule property or from committing any act of waste. In execution of the said decree, petitioner had

obtained an order dated 10/04/2013 which is produced as Ext.P2 wherein the Munsiff Court had formed an opinion that the judgment debtors had disobeyed the decree of injunction. Further direction was issued to imprison the judgment debtors 1, 3 to 5 for a continuous period of one month in civil prison. The matter was challenged before this Court in O.P(C) No.2140/2013 which is dismissed by judgment dated 16/01/2014 and produced as Ext.P3. Petitioner has filed an application in the year 2013 before the Munsiff Court seeking police protection for constructing the compound wall, as directed in the judgment.

3. It is submitted by the learned counsel for the petitioner that even though they are constructing the compound wall, private respondents are demolishing the same. Petitioner has constructed the compound wall only as per the decree passed in the civil suit. Though an application was submitted to the police for necessary assistance to construct the compound wall, police did not

take any action and hence the petitioner has approached this Court.

4. Learned counsel appearing for respondents 4 and 6 submits that they have filed an application to set aside the ex parte decree, which is pending consideration.

5. Having regard to the above factual situation, it is clear that the petitioner is presently armed with a decree which is enforceable under law. Petitioner has already moved the Civil Court seeking police protection for constructing the compound wall. It is for the Civil Court to consider the said application taking into consideration the factual situation arises in this case.

4. But, in so far as the grievance projected by the petitioner is concerned, if there is any law and order situation arising out of conflict between the petitioner as well as the private respondents, police has to interfere in the matter and provide adequate protection and ensure maintenance of law and order. Under such circumstances,

reserving right of the petitioner to approach the Civil Court for police protection, as prayed for, in Ext.P4 application, there will be a direction to respondents 7 to 9 to ensure maintenance of law and order in the area in question.

With these observations, this writ petition is disposed of.

(sd/-)
**(ASHOK BHUSHAN,
ACTING CHIEF JUSTICE)**

(sd/-)
(A.M.SHAFFIQUE, JUDGE)

jsr

