

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 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

WP(C).No. 26907 of 2014 (K)

PETITIONER(S):

**NENMANIKKARA GRAMA PANCHAYATH,
NENMANIKKARA, THRISSUR DISTRICT,
REPRESENTED BY ITS SECRETARY,
SUBHASH P.B., AGED 42 YEARS, S/O.BHASKARAN**

**BY SRI.RENJITH THAMPAN, SENIOR ADVOCATE
ADV. SMT.P.RREENA**

RESPONDENT(S):

- 1. SUPERINTENDENT OF POLICE (RURAL),
THRISSUR, PIN-680 003.**
- 2. CIRCLE INSPECTOR OF POLICE,
PUDUKKAD POLICE STATION, PUDUKKAD, THRISSUR,
PIN-680 301**
- 3. SASI,
S/O.DAMODARAN, AYYANCHIRA HOUSE, CHERUVAL,
PAZHAYI P.O., THRISSUR DISTRICT, PIN-680 301**
- 4. SAJEEVAN
S/O.DAMODARAN, AYYANCHIRA HOUSE, CHERUVAL,
PAZHAYI P.O., THRISSUR DISTRICT, PIN-680 301.**
- 5. RATHIRAKSHAN,
S/O.BALAN, AYYANCHIRA HOUSE, CHERUVAL
PAZHAYI P.O., THRISSUR DISTRICT, PIN-680 301.**
- 6. MOHANAN,
PULIKKAL HOUSE, AYYANCHIRA HOUSE, CHERUVAL,
PAZHAYI P.O., THRISSUR DISTRICT, PIN-680 301.**

msv/

WP(C).No. 26907 of 2014 (K)

7. CHANDRAN,
CHEENATH HOUSE, AYYANCHIRA HOUSE, CHERUVAL,
PAZHAYI P.O., THRISSUR DIST, PIN-680 301.

* ADDITIONAL R8 IMPEADED

8. DISTRICT COLLECTOR,
COLLECTORATE, THRISSUR, PIN - 680 003.

* ADDL.R8 IMPEADED AS PER ORDER DATED 09.01.2015 IN IA.NO.187/15.

R3-R7 BY ADV. SRI.K.S.BHARATHAN
R1, R2 & R8 BY SENIOR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 26907 of 2014 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT. P1:-TRUE COPY OF THE LETTER DTD 21/5/2012 OF THE DISTRICT COLLECTOR
WITH ENGLISH TRANSLATION.**

**EXT. P2:-TRUE COPY OF THE PROCEEDINGS OF THE SPORTS COUNCIL OF KERALA
DTD 18/1/2014 WITH ENGLISH TRANSLATION.**

**EXT. P3:-TRUE COPY OF THE GOVERNMENT ORDER GO (RT) NO 69/2013
DTD 22/2/2013 WITH ENGLISH TRANSLATION.**

**EXT. P4:-TRUE COPY OF THE LETTER DTD 22/9/2014 FILED BY THE PRESIDENT OF
THE PANCHAYTH WITH ENGLISH TRANSLATION.**

**EXT. P5:-TRUE COPY OF THE COMPLAINT DTD 27/9/2014 FILED BEFORE THE
2ND RESPONDENT WITH ENGLISH TRANSLATION.**

**EXT. P5(A):-TRUE COPY OF THE COMPLAINT DTD 27/9/2014 AND RECEIPT
DTD 27/09/2014.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms^v/

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

.....
W.P. (C) No. 26907 of 2014 – K
.....

Dated this the 6th day of February, 2015

JUDGMENT

Shaffique, J.

Petitioner is a Grama Panchayath who has approached this Court seeking police protection. It is inter alia contended that the petitioner/Panchayath has ownership and possession in respect of 1.56 acres of land in Sy. No. 1595 of Nenmanikkara Village. The Government has allotted certain funds for effecting construction in the said land but on account of obstruction being created by respondents 3 to 7, the petitioner is unable to proceed with the said construction. The petitioner had submitted complaint before the 2nd respondent for police protection. But

since no action has been taken by the police, the petitioner has approached this Court for a direction to respondents 1 and 2 to afford adequate and effective police protection for the construction of model Anganvadi and the upliftment of mini stadium as per Exts. P2 and P3.

2. A counter affidavit has been filed by respondents 3 to 7 inter alia stating that the petitioner does not have absolute title in respect of the aforesaid 1.56 acres. The land mentioned as cattle grazing puramboke in revenue records actually belongs to Valiyakunnath Shree Dharma Shasta Temple having been dedicated to the idol Shree Dharma Shastha and being used as such. It is stated that this fact has been accepted and recognized by the entire public in the locality and the functions in relation to the annual festival of the temple, Ayyappan Vilakku etc. is conducted there. Therefore, according to respondents 3 to 7, the Panchayath has no right to proceed with the construction in the said property. It is also mentioned by the learned counsel for respondents 3 to 7 that Civil Suit O.S. No.5323/2014 has been

filed before the Munisff Court, Irinjalakkuda for fixation of boundaries and for injunction. Since notice has been ordered to the local authorities so far no interim order has been passed. Respondents are awaiting for interim order in the said suit. Under such circumstances, this Court should not grant police protection to the petitioner.

3. A statement has been filed by the addl. 8th respondent inter alia stating that the land extending 0.6313 Hectors (1.56 Acres) in Sy. No. 1595 of Nenmanikkara Village is recorded as Purampoke-Kannukali Mechil Sthalam in the Basic Tax Register. On physical verification of the said land it is seen that a basement for an open air stadium has been constructed on a portion of the said land. A further verification of the village records indicates that 60 cents of the said land has been assigned in favour of the Executive Officer, Nenmanikkara Grama Panchayath as per G.O. (MS) No. 8/90 dated 2-1-1990 and the balance extent has vested upon the Panchayath in terms of the provisions of the Panchayath Raj Act. Further it is stated that as per the proceedings of the

District Collector dated 28-10-2012, construction of the existing Vana-Sastha Temple in Sy. No.1595 was regularised with the consent of the Panchayath. Therefore, according to the 8th respondent, the entire extent having 1.56 acres was vested with the Nenmanikkara Grama Panchayath.

4. However, in this police protection matter, we do not intend to decide on the title dispute between the parties which apparently is to be decided only by an appropriate civil court. That apart, a civil suit is pending consideration and it is always open for the party respondents to approach the civil court and obtain appropriate directions in the said suit. However, as matters stand now, there is no injunction or restriction for the Panchayath to proceed with the construction. Accordingly, the party respondents have no right to obstruct such construction in the property. In the circumstances, if there is any such obstruction, it is for the the police to provide adequate protection. However, such protection shall be granted only subject to further directions to be issued by the civil court in the matter.

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

In the event of any obstruction from respondents 3 to 7 in the matter relating to construction as envisaged by the Panchayath in the property, the 2nd respondent shall ensure maintenance of law and order in accordance with law.

Sd/- ASHOK BHUSHAN ,
Ag. CHIEF JUSTICE

Sd/-A.M.SHAFFIQUE,
JUDGE

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