

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 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

WP(C).No. 28764 of 2015 (U)

PETITIONER(S) :-

P.K.MATHAI, AGED 79 YEARS  
S/O.KOSHY, POWATHU PUTHEN VEEDU, MANJINIKKARA  
OMALLOOR, ALAPPUZHA.

BY ADVS.SRI.R.SUNIL KUMAR  
SMT.A.SALINI LAL

RESPONDENT(S) :-

1. DISTRICT POLICE CHIEF  
DISTRICT POLICE CHIEF OFFICE,  
PATHANAMTHITTA - 689 645.
2. INSPECTOR OF POLICE  
CIRCLE OFFICE, PATHANAMTHITTA - 689 645.
3. SUB INSEPCTOR OF POLICE  
PATHANAMTHITTA POLICE STATION  
PATHANAMTHITTA - 689 645.
4. DR.Y GEORGE, VICAR,  
OMALLOOR MARTHOMA SYRIAN CHURCH, MANJINIKKARA  
OMALLOOR, PATHANAMTHITTA - 689 645.
5. SAM C. KOSHY  
SECRETARY, OMALLOOR MARTHOMA SYRIAN CHURCH  
MANJINIKKARA, OMALLOOR, PATHANAMTHITTA - 689 645.

R4 & R5 BY ADV. SRI.K.SHAJ  
SRI.SAJJU.S

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

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 26-11-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

WP(C) .No. 28764 of 2015 (U)

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APPENDIX

PETITIONER(S) ' EXHIBITS :-

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EXHIBIT P1 : COPY OF THE BUILDING PERMIT.

EXHIBIT P2 : COPY OF THE PERMIT ISSUED BY THE GEOLOGIST.

EXHIBIT P2(a) : TRANSLATION OF EXHIBIT P-2.

EXHIBIT P3 : COPY OF THE CONSENT DEED.

EXHIBIT P3(a) : TRANSLATION OF EXHIBIT P-3.

EXHIBIT P4 : COPY OF THE COMPLAINT BEFORE THE 3RD RESPONDENT.

RESPONDENT(S) ' EXHIBITS :- NIL

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//TRUE COPY//

P.A. TO JUDGE

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

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**W.P.(C) No.28764 of 2015**  
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**Dated this the 26<sup>th</sup> day of November 2015**

**J U D G M E N T**

**Shaffique, J.**

The petitioner has approached this Court seeking for police protection alleging that respondents 4 and 5 were obstructing the petitioner from removing red earth from his property, for which, permission has been obtained from the concerned authority. According to him, he intends to construct a building in the property and he has obtained Ext.P1 building permit on 26.3.2015 for the same. He had also obtained permission from the Mining and Geology Department on 11.9.2015, Ext.P2, by which, he was permitted to remove 1000 Metric Ton (125 loads) of red earth, which has been kept in the said property. The period of the said permit was valid till 26.9.2015.

2. Learned counsel for the petitioner submits that the said permit has been extended upto 5.12.2015 for removing 1500 Metric Ton of red earth from the said property.

3. Counter affidavit has been filed by respondents 4 and 5 stating that the construction of the building is only a ruse,

-: 2 :-

whereas, the intention is to remove ordinary soil from the property and the petitioner is indiscriminately removing the soil.

4. Learned Government Pleader on instructions would submit that the Geologist has conducted an inspection and found that about 1500 Metric Ton of red earth had been stored in the property.

5. Having regard to the aforesaid factual situation, we are of the view that if there is any obstruction from respondents 4 and 5 in removing red earth in terms of permit dated 11.9.2015, which is valid till 5.12.2015, the 3<sup>rd</sup> respondent shall ensure maintenance of law and order and also ensure that no obstruction is being caused by respondents 4 and 5.

This writ petition is disposed of as above.

**Sd/-**  
**ASHOK BHUSHAN**  
**CHIEF JUSTICE**

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