

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 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

WP(C).No. 29498 of 2015 (J)

PETITIONER(S) :-

1. RACHEL JOHN, AGED 75 YEARS,
W/O.LATE JOHN P. CHACKO, T.C.1/1440,
JUPITER (PJRR A E-17), CHERUVAIKKAL VILLAGE,
KUMARAPURAM, MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM - 695 011.
2. JACOB JOHN, AGED 77 YEARS,
S/O.I.C.CHACKO, T.C.1/1441, INCHAKEL (PJRR A-E-16),
CHERUVAIKKAL VILLAGE, KUMARAPURAM,
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM - 695 011.

BY ADV. SMT.ASHA ELIZABETH MATHEW

RESPONDENT(S) :-

1. COMMISSIONER OF POLICE, THIRUVANANTHAPURAM - 695 001.
2. CIRCLE INSPECTOR OF POLICE, MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM - 695 011.
3. SUB INSPECTOR OF POLICE,
MEDICAL COLLEGE POLICE STATION, MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM - 695 011.
4. K.SUDHAKARAN, S/O.KUNHIRAMAN,
MRA 42 B3 LANE, MARAPPALAM,
PATTOM P.O., THIRUVANANTHAPURAM - 695 004.
5. T.JAYAPRABHA, W/O.SUDHAKARAN,
MRA 42 B3 LANE, MARAPPALAM, PATTOM P.O.,
THIRUVANANTHAPURAM - 695 004.

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

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 29-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1 :- TRUE COPY OF THE PROPERTY TAX RECEIPT DATED 09/09/2015 OF CHERUVAICKAL VILLAGE WHEREBY TAX IS REMITTED FOR THE 1ST PETITIONER'S RESIDENTIAL PLOT ALONG WITH ITS ENGLISH TRANSLATION.

EXT.P2 :- TRUE COPY OF THE FPROPERTY TAX RECEIPT DATED 29/07/2015 WHEREBY TAX IS REMITTED FOR THE RESIDENTIAL PROPERTY OF THE 2ND PETITIONER ALONG WITH ITS ENGLISH TRANSLATION.

EXT.P3 :- TRUE COPY OF THE PROPERTY TAX RECEIPT DATED 29/07/2015 WHEREBY TAX IS REMITTED FOR THE WAY PORTION IN THE NAME OF THE 1ST PETITIONER'S HUSBAND AND THE 2ND PETITIONER ALONG WITH ITS ENGLISH TRANSLATION.

EXT.P4 :- TRUE COPY OF THE PROPERTY TAX RECEIPT No.323071 DATED 30/10/2004 OF VILLAGE OFFICE; CHERUVAKKAL ALONG WITH ITS ENGLISH TRANSLATION.

EXT.P5 :- TRUE COPY OF THE FPROPERTY TAX RECEIPT DATED 30/10/2000 WHEREBY THE 2ND PETITIONER HAD PAID PROPERTY TAX ALONG WITH ITS ENGLISH TRANSLATION.

EXT.P6 :- PHOTOGRAPH SHOWING THE LIE AND EXISTENCE OF THE PETITIONERS' PROPERTY INCLUSIVE OF THE WAY.

EXT.P7 :- TRUE COPY OF THE DECREE DATED 06/04/2004 IN O.S.No.1766/2003 OF THE ADDL.MUNSIFF'S COURT-I, THIRUVANANTHAPURAM.

EXT.P8 :- TRUE COPY OF THE COMMISSIONER'S REPORT IN O.S.No.1766/2003.

EXT.P9 :- TRUE COPY OF THE ORDER DATED 12/01/2012 ISSUED BY THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM ALONG WITH ITS ENGLISH TRANSLATION.

EXT.P10 :- TRUE COPY OF THE FIR IN CRIME No.56 OF 2010 OF MEDICAL COLLEGE POLICE STATION, THIRUVANANTHAPURAM ALONG WITH ITS ENGLISH TRANSLATION.

EXT.P11 :- TRUE COPY OF THE ORDER DATED 19/02/2010 IN I.A.No.658/2010 IN O.S.No.139/2010 OF THE FIRST ADDITIONAL MUNSIFF'S COURT, THIRUVANANTHAPURAM.

EXT.P12 :- TRUE COPY OF THE JUDGMENT DATED 10/06/2015 OF THIS HON'BLE COURT IN CRP No.777/2013.

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EXT.P13 :- TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE
3RD RESPONDENT ALONG WITH ITS ENGLISH TRANSLATION.

EXT.P14 :- TRUE COPY OF THE REPRESENTATION DATED 15/09/2015
SUBMITTED BY THE PETITIONERS BEFORE THE 1ST RESPONDENT WITH
COPY TO THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS :- NIL.

//TRUE COPY//

P.A. TO JUDGE

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

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Dated this the 29th day of September 2015

J U D G M E N T

Shaffique, J.

The petitioners have approached this Court seeking for police protection. It is stated that there was some dispute with respondents 4 and 5 in the matter relating to a pathway. The petitioners had filed a suit, O.S.No.1766 of 2003, before the Munsiff's Court, Thiruvananthapuram and a decree had been passed against respondents 4 and 5, restraining them from trespassing into the plaint 'C' schedule property from demolishing the eastern compound wall of the said property and the gate on the southern side and from committing any waste therein. Despite the said decree, it is submitted by the petitioners that, respondents 4 and 5 had also filed a suit as O.S.No.139 of 2010 before the Additional Munsiff's Court, Thiruvananthapuram and by an order dated 19.2.2010 in I.A.No.658 of 2010, an application for interim injunction filed by respondents 4 and 5 has been dismissed, forming an opinion that there is suppression of material facts regarding the earlier decree and judgment.

2. While so, according to the petitioners, several attempts were made by respondents 4 and 5 to trespass into the petitioners' property and they are continuously threatening the petitioners, who are senior citizens, with dire consequences that they will further trespass into the petitioners' property. Under such circumstances, the petitioners had filed Exts.P13 and P14 complaints to the police, but so far, no action has been taken in the matter. The petitioners submit that the police had offered to interfere in the matter only if any offence is committed.

3. Learned counsel for the petitioners submits that they are under severe threat to their life and property and despite a decree being passed in their favour, no action had been taken by the police in the matter.

4. Having regard to the aforesaid factual situation, we are of the view that police can interfere in such matters only if there is any offence committed or attempt to commit offence. However, since there is apprehension expressed by the petitioners in regard to the continuous threat, it is for the police to enquire into the matter and to maintain necessary law and order.

Therefore, we dispose of the writ petition directing the police to ensure maintenance of law and order and also to ensure

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-: 3 :-

that if there is any offence committed or attempt to commit offence, on the complaint of the petitioners, appropriate action shall be taken by the police in accordance with law.

**Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE**

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

Jvt/30.9.2015.