

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 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C).No. 32314 of 2013 (L)

PETITIONER(S):

T.V.VARGHESE AGED 66 YEARS
THAYYIL VEEDU, ANGAMOOZHI
KUMARAMPEROOR VADAKKEKKARA MURI, CHITTAR
SEETHATHODE VILLAGE, PATHANAMTHITTA DISTRICT

BY ADVS.SRI.T.K.BIJU (MANJINIKARA)
SMT.ANNIE M.ABRAHAM

RESPONDENT(S):

1. SUB INSPECTOR OF POLICE
MOOZHIYAR POLICE STATION,
MOOZHIYAR, PATHANAMTHITTA
2. SANTHAMMA
W/O.RAJENDRAN, CHIRATTOLIL HOUSE, ANGAMOOZHY
KUMARAMPEROOR VADAKKEKKARA MURI
CHITTAR-SEETHATHODE VILLAGE, PATHANAMTHITTA
3. RAJENDRAN
CHIRATTOLIL HOUSE, ANGAMOOZHY, KUMARAMPEROOR
VADAKKEKKARA MURI, CHITTAR-SEETHATHODE VILLAGE
PATHANAMTHITTA

R1 BY SR. GOVERNMENT PLEADER SRI. C.R. SYAMKUMAR
R2 BY ADV.SRI.V.SETHUNATH
R2 BY ADV.SRI.S.JUSTUS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 32314 of 2013 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 COPY OF THE COMMON JUDGMENT DATED 21/6/2008 IN OS 213/2006 & 229/2006 ON THE FILE OF THE LEARNED MUNSIF, RANNY

EXHIBIT P2 COPY OF THE COMMON JUDGMENT 12/7/2012 IN AS NO. 101/2008 & AS NO.102/2008 ON THE FILE OF THE ADDL.DISTRICT JUDGE, PATHANAMTHITTA

EXHIBIT P3 COPY OF THE COMPLAINT DATED 1/12/2013 SUBMITTED BY THE PETITIONER BEFORE THE IST RESPONDENT

EXHIBIT P4 COPY OF THE RECEIPT DATED 1/12/2013 ISSUED BY THE OFFICE OF THE IST RESPONDENT TO THE PETITIONER

EXHIBIT P5 COPY OF THE PERMISSION GRANTED BY SEETHATHODE GRAMA PANCHAYAT TO THE PETITIONER DT.11.12.2006

EXHIBIT P5(a) ENGLISH TRANSLATION OF EXT.P5.

RESPONDENT(S)' EXHIBITS

EXTR3(a) - TRUE COPY OF THE JUDGMENT OF THIS COURT IN WPC. NO.9119/2007

EXTR3(b) - TRUE COPY OF THE ORDR NO.s1 331/2006 OF THE SEETHATHODE DATED 3.4.2007 WITH ENGLISH TRANSLATION.

// TRUE COPY //

P.A. TO JUDGE

sou.

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

W.P(C). No. 32314 of 2013

Dated this the 17th day of November, 2015

JUDGMENT

Shaffique, J

Petitioner has approached this Court seeking police protection. It is inter alia contended that he is in possession of certain item of property for the last 45 years. Petitioner had also constructed a shoproom in which he was conducting a business. The building was in a dilapidated condition. The petitioner intends to reconstruct the same. At that time, the second respondent filed O.S. No.213 of 2006 seeking permanent prohibitory injunction. Petitioner also filed O.S. No.229 of 2009 against the second respondent seeking permanent prohibitory injunction. Both the suits were decided by a common judgment. The suit filed by the second respondent was dismissed and the suit filed by the petitioner was decreed. Appeal was filed by the second respondent, which was also dismissed by a common judgment dated

12.7.2012 in A.S. No.101 of 2008 and A.S. No.102 of 2008.

2. According to the petitioner, after finality of the aforesaid judgments, respondents 2 and 3 started threatening the petitioner and started harassing him and he is not permitted to conduct the business in a peaceful manner. Though complaint has been given to the police, they have not taken any action. Hence the petitioner approached this court.

3. Counter affidavit has been filed by respondents 2 and 3 inter alia contending that they are in possession of certain item of property near the petitioner's premises and the allegation of trespass is baseless.

4. Having regard to the aforesaid factual situation, it is clear that the second respondent is restrained by a permanent prohibitory injunction from trespassing into the property belonging to the petitioner, which is covered by Ext.P1 and P2 judgments. Under such circumstances, the second respondent cannot interfere with possession of the petitioner in any manner. If there is any such illegal obstruction or any threat to the petitioner carrying on any activity in his property, the police is bound to interfere and maintain law and order.

5. Under such circumstances, this writ petition is allowed

as under :

The first respondent is directed to ensure law and order in the matter relating to the business being conducted by the petitioner in his property and ensure that no obstruction is caused by respondents 2 and 3.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M.SHAFFIQUE,
JUDGE

sou.17/11/15

// TRUE COPY //