

**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**

**TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936**

**WP(C).No. 30064 of 2014 (G)**  
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**PETITIONER :**  
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**K.A GEORGE,  
S/O.LATE A.G.ABRAHAM,AGED 72 YEARS,  
ATTASSERIL KALLUNGAL HOUSE, VARAYANNOOR P.O,  
PULLAD, PATHANAMTHITTA.**

**BY ADV. SRI.BABU PAUL**

**RESPONDENT(S):**  
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- 1. MRS. LISSY ANTONY,  
W/O.CHIRAYATH ANTONY, AGED 65 YEARS,  
CHIRAYATH HOUSE, MUNAMBAM, PIN-683 515**
- 2. DAISLY @ KUTTAN,AGED 35 YEARS, S/O.ANTONY,  
CHIRAYATH HOUSE, MUNAMBAM - 683 515.**
- 3. THE STATION HOUSE OFFICER,  
MUNAMBAM POLICE STATION, MUNAMBAM, PIN- 683 515**

**R1 & R2 BY ADVS. SRI.K.NARAYANAN (PARUR)  
SRI.DEEPAK JOY.K.**

**R3 BY ADDL. ADVOCATE GENERAL SRI.P.C.IYPE  
BY STATE ATTORNEY SRI.P.VJAYARAGHAVAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

**sts**

**WP(C).No. 30064 of 2014 (G)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- EXT.P1 - TRUE COPY OF THE JUDGMENT IN OS.NO.550/2010 OF THE HON'BLE  
MUNSIFFS COURT N.PARUR**
- EXT.P2 - TRUE COPY OF THE COMPLAINT DATED 28-8-2014 FILED BEFORE THE  
3RD RESPONDENT**
- EXT.P3 - TRUE COPY OF THE TRANSLATION OF EXT.P2**
- EXT.P4 - TRUE COPY OF THE COMPLAINT DATED 11-9-14 FILED BEFORE THE  
3RD RESPONDENT**
- EXT.P5 - TRUE COPY OF THE TRANSLATION OF EXT.P4.**

**RESPONDENT(S)' EXHIBITS:** **NIL**  
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**/TRUE COPY/**

**P.A.TO.JUDGE**

**sts**

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

**\* \* \* \* \***

**W.P.C.No.30064 of 2014**

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Dated this the 17<sup>th</sup> day of March 2015

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

**Shaffique,J**

Petitioner has approached this Court seeking police protection to enable the petitioner, his men and staff to carry out the construction of the compound wall. According to the petitioner, when obstructions were created by respondents 1 and 2 in the matter of enjoyment of property, he filed O.S.No.550/2010 before the Munsiff Court, North Parur in which permanent prohibitory injunction has been granted against defendants 1 to 3, of which respondents 1 and 2 herein are defendants 1 and 3 in the said suit, restraining them from trespassing upon plaint A schedule properties or obstructing the plaintiff from constructing compound wall on its boundaries or doing any acts obstructing plaintiff's peaceful possession of plaint A schedule properties. Further prohibitory injunction has been granted restraining defendants 1 and 3, obstructing the plaintiff from using plaint B schedule way.

2. It is submitted that despite the grant of permanent prohibitory injunction, respondents 1 and 2 interfered in the construction of compound wall and created obstructions.

3. Counter affidavit has been filed by respondents 1 and 2 inter alia stating that they have not created any physical obstruction in the matter. They have filed an appeal against the judgment in O.S.No.550/2010 as A.S.No.50/2014 before the Additional District Court, North Paravur which is pending consideration. Further, the relief sought for by the petitioner cannot be granted in view of the decree passed and the remedy of the petitioner is only to approach the Civil court for execution of the decree.

4. Having regard to the aforesaid submission, we are of the view that the parties have to abide by the decree passed in this case and if there is no stay of operation of the judgment, respondents 1 and 2 are bound to observe the directions issued by the Munsiff Court in O.S.No.550/2010. However, this will be subject to the result in the appeal that is pending consideration.

5. During the pendency of the appeal, in the absence of any order of stay by the appellate court, the parties are bound to maintain law and order and no physical obstruction should be created by respondents 1 and 2 in the matter in which a decree has already been passed.

6. Under such circumstances, there will be a direction to the 3<sup>rd</sup> respondent to ensure maintenance of law and order in the matter relating to construction of compound wall by the petitioner as permitted in the judgment in O.S.No.5502010. However, this will be subject to any further orders that might be passed by the Additional District Court in A.S.No.50/2014.

This writ petition is disposed of as above.

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

(sd/-)  
**(A.M.SHAFIQUE, JUDGE)**

jsr





