

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**

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WP(C).No. 31918 of 2014 (L)

PETITIONERS :

- 1. NIRAAMAYA RETREATS KUMARAKOM PRIVATE LIMITED,
SREERAM NIVAS, XVII/330, COURT ROAD,
PERUMBAVOOR, ERNAKULAM
REPRESENTED BY ITS AUTHORISED SIGNATORY
RAJEESH KUMAR.S.V.**
- 2. THAMBI,
CONTRACTOR, M/S.THAMBI & ASSOCIATE, 22/202,
KANNARA.P.O, MARAIKKAL, THRISSUR, KERALA-689652.**

BY ADV. SRI.V.V.NANDAGOPAL NAMBIAR

RESPONDENTS :

- 1. THE CIRCLE INSPECTOR OF POLICE,
OFFICE OF CIRCLE INSPECTOR OF POLICE, KOTTAYAM WEST,
KOTTAYAM DISTRICT-686001.**
- 2. THE SUB INSPECTOR OF POLICE,
KUMARAKOM POLICE STATION, KUMARAKOM,
KOTTAYAM DISTRICT - PIN-686566.**
- 3. THE SECRETARY,
KERALA ARTISANS UNION, CITU, PALLICHIRA NORTH BRANCH
KUMARAKOM, PIN-686566.**
- 4. THE SECRETARY,
ARTISANS UNION, BMS, PALLICHIRA NORTH BRANCH
KUMARAKOM, PIN-686566.**

**R1 & R2 BY SENIOR GOVERNMENT PLEADER SRI. C.R. SYAMKUMAR
R3 BY SRI.T.A.SHAJI SENIOR ADVOCATE
BY ADV. SRI.M.A.ASIF
R4 BY ADV. SRI.S.MANU**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE WORK ORDER DTD.01.09.2014

EXT.P2: TRUE COPY OF THE COMPLAINT ADDRESSED TO THE 2ND RESPONDENT.

EXT.P3 TRUE COPY OF THE COMPLAINT DTD.13.11.2014.

**EXT. P4: COPY OF THE NEWS PAPER REPORT PUBLISHED IN MALAYALA MANORAMA
DAILY DT 13/1/2015.**

**EXT.P4(A): COPY OF THE TRANSLATION OF NEWS PAPER REPORT PUBLISHED IN
MALAYALA MANORAMA DAILY DT 13/1/2015.**

RESPONDENT(S)' EXHIBITS

ASHOK BHUSHAN, Ag.C.J.

&

A.M. SHAFFIQUE, J.

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Dated this the 29th day of January, 2015

JUDGMENT

A.M.Shaffique, J.

First petitioner is a Company and the 2nd petitioner is a contractor engaged by the Company. The 2nd petitioner is constructing a resort at Kumarakom Village, Kottayam District, for and on behalf of the 1st petitioner. The 2nd petitioner submits that the work was being done by the persons engaged from the locality. But on account of some internal rivalry between respondents 3 and 4, there is a law and order situation by which, petitioners are not in a position to carryout the construction of the said resort. Petitioners had approached the police for necessary protection to engage their own workers for carrying out work. Since the police did not take any action, petitioner had approached this Court seeking the

following reliefs:

- “i) Issue a writ of mandamus or other appropriate writ, order or direction commanding respondents 1 and 2 to provide adequate police protection to the petitioners and their workmen to carry out their work in 1st petitioner's premises at Kumarakom Village without let or hindrance from respondent 3, 4 and their men, supporters and sympathizers.
- ii) Direct the respondents 1 and 2 to take appropriate action on Exhibits P2 and P3 complaints expeditiously.”

2. Counter affidavit has been filed by the 3rd respondent, inter alia stating that there are about 92 workers in the said union and all of them are skilled workers and they had been working in the site in question. According to the 3rd respondent, they have not created any obstruction. They have not demanded any 'Nokkukooli' and there is no cause of action for the petitioners to have approached this Court. According to the 3rd respondent, they are willing to co-operate with the petitioners and they do not intend to create any obstruction in the work.

3. Reply affidavit has been filed by the petitioners

stating that a crime, has been committed in the area on account of rivalry between respondents 3 and 4.

4. The learned Government Pleader on instructions, would submit that certain issues had developed in the locality with reference to certain members with the 3rd respondent union joining the 4th respondent union and whenever petitioners had sought for protection, adequate police protection had been granted. Police had taken all necessary steps to maintain law and order situation in the area.

5. Learned counsel appearing for the 4th respondent submits that the issues in relation to the work being carried on by the petitioners has been taken before the District Labour Officer. But the petitioners are not participating in the meeting convened by the District Labour Officer. According to the 4th respondent also, they are not creating any obstruction and they are willing to work, whereas the intention of the petitioners is to

bring workers from outside the area and to carry out the work in their site. Even according to the 4th respondent also, there is no cause of action for the petitioner herein to approach this Court.

6. Having regard to the aforesaid factual controversy and after hearing the learned counsel appearing on either side and the learned Government Pleader, we are of the view that there is some issue with reference to engagement of workers from respondents 3 and 4 Unions, which has to be considered and adjudicated by the District Labour Officer in accordance with the procedure prescribed.

7. In regard to the construction work in question, which is undertaken by the petitioners, the respondents Union have no right to obstruct the carrying on the said work and it is open for the petitioners to engage their own workers. However, if the petitioners feel that the workers of respondents 3 and 4 are to be engaged they

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are free to do so or they have to comply with the directions issued by the District Labour Officer in that regard.

8. In the said circumstances, we direct respondents 1 and 2 to ensure that law and order situation is maintained in the work being carried on by the petitioners in their property and they shall also ensure that no obstruction is being created by respondents 3 and 4 Union or their members and the parties comply with the directions issued by the District Labour Officer in this regard.

The writ petition is disposed of accordingly.

Sd/-
ASHOK BHUSHAN
ACTING CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

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