

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 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 32094 of 2014 (J)

PETITIONER :

MOIDEENKUTTY, AGED 59 YEARS
S/O.LATE R.K.SEETHI HAJI, RESIDING AT SHAMEER NIVAS
OTTAPALAM EAST, PALAKKAD DISTRICT, PIN 679101.

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENTS :

1. THE SUB INSPECTOR OF POLICE
OTTAPALAM POLICE STATION, OTTAPALAM, PALAKKAD DISTRICT
PIN 679101.
2. THE SECRETARY
HEADLOAD WORKERS UNION (CITU), (REG.NO.ER/N.2)
EAST OTTAPALAM, PALAKKAD DISTRICT, PIN 679101.
3. THE DISTRICT SECRETARY
KERALA HEADLOAD WORKERS WELFARE BOARD
PALAKKAD DISTRICT COMMITTEE, PALAKKAD-678001.

R1 BY SR.GOVERNMENT PLEADER, SRI.C.R. SYAM KUMAR

R2 BY ADVS. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA

R3 BY ADV. SRI.C.S. AJITH PRAKASH, SC, KHWBB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 32094 of 2014 (J)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT-P1: TRUE COPY OF THE BUILDING PERMIT DT.25.11.2014 ISSUED BY THE
OTTAPALAM MUNICIPALITY TO THE PETITIONER.

EXHIBIT-P2: TRUE COPY OF THE PETITION FILED BEFORE THE 1ST RESPONDENT BY
THE PETITIONER.

EXHIBIT-P2(A): ENGLISH TRANSLATION OF EXHIBIT-P2.

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

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

W.P.(C) No. 32094 OF 2014

Dated this the 13th day of January, 2015

JUDGMENT

Shaffique, J.

The petitioner has approached this Court seeking police protection for carrying on his work relating to the construction of a multi storied building complex. According to him, there is no loading and unloading work coming within the Schedule to the Kerala Headload Workers Act, 1978. Learned counsel for the petitioner submits that the loading and unloading in the construction site of the petitioner is being done in a mechanised manner and only certain works are being done manually for which he has his own permanent workers.

2. The second respondent has filed counter affidavit *inter alia* stating that they are the workers of the pool who are doing the loading and unloading work being carried on in the establishment of the petitioner. However, there was a dispute regarding the wages and therefore, the petitioner has approached this Court. They also submit that they have not demanded any 'nokkukooli' as alleged.

3. The third respondent has filed a statement *inter alia* stating that the area in question is a scheme covered area and therefore the loading and unloading has to be done by engaging the workers from the pool.

4. It is not in dispute that in a Scheme covered area the loading and unloading work in the construction site will have to be undertaken through registered workers engaged from the pool. If the petitioner has any grievance regarding wages by workers in the pool, then he has to approach the Headload Workers Welfare Board and get appropriate orders. As far as the mechanised works in the construction site of petitioner are concerned, the 2nd respondent or anybody under them cannot claim any right nor obstruct such activity.

5. In such circumstances, we do not think that the relief sought by the petitioner can be allowed. We only observe that Police shall maintain law and order situation in the area. If any problem arises while engaging the workers from the pool for

manual work carried on in the construction site of the petitioner it is open for the petitioner to approach the competent authority.

The Writ Petition is disposed of as above.

**Ashok Bhushan,
Acting Chief Justice.**

**A.M. Shaffique,
Judge.**