

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 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C).No. 32134 of 2014 (N)

PETITIONER(S):

1. M/S. ANWAR TRADERS
GENERAL MERCHANTS & COMMISSION AGENTS, DOOR NO.40/85
MARKET ROAD, PALAKKAD
REPRESENTED BY ITS MANAGING PARTNER, V.K. HANEEFA.
2. V.K. HANEEFA AGED 72 YEARS
S/O. LATE KUNJAPPU, RESIDING AT DOOR NO.27/474
CHAKKATHARA, PALAKKAD-6.

BY ADVS. SRI. BINOY VASUDEVAN
SRI. R. MANIKANTAN
SMT. P.G. BABITHA

RESPONDENT(S):

1. THE DEPUTY SUPERINTENDENT OF POLICE
PALAKKAD DISTRICT-678101.
2. THE SUB INSPECTOR OF POLICE
TOWN NORTH POLICE STATION, PALAKKAD-678101.
3. THE PALAKKAD DISTRICT VANIYA VYAVASAYA MAZDOOR SANGHAM
(AFFILIATED TO BMS), HARIKKARA STREET, PALAKKAD-678101
REPRESENTED BY ITS SECRETARY.
4. K. UNNIKRISHNAN
S/O. V. MANIKAN NAIR, OFFICE OF B.M.S, HARIKKARA STREET
PALAKKAD-678101.
5. K. MANIKANDAN
S/O. KUTTYKRISHNAN, OFFICE OF B.M.S, HARIKKARA STREET
PALAKKAD-678101.
6. V. LAKSHMANAN
S/O. VELAYUDHAN, OFFICE OF B.M.S, HARIKKARA STREET
PALAKKAD-678101.

7. K.RATHEESH

S/O.KITTA, OFFICE OF B.M.S, HARIKKARA STREET
PALAKKAD-1.

8. THE STATE OF KERALA

REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT
HOME DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.

R1-2 BY SR. GOVERNMENT PLEADER SRI. C.R SYAMKUMAT
R3-R7 BY ADV.SRI.V.TEKCHAND

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

P1- TRUE COPY OF THE PARTNERSHIP DEED OF THE SECOND PETITIONER.

P2- TRUE COPY OF THE SALES TAX REGISTRATION OF THE SECOND PETITIONER.

P3- TRUE COPY OF THE RECEIPT ISSUED FOR LICENSE ISSUED TO THE FIRST PETITIONER BY THE LOCAL AUTHORITY.

P3(A)- TRUE ENGLISH TRANSLATION OF EXHIBIT P3.

P4- TRUE COPY OF THE WAGE REGISTER OF THE FIRST PETITIONER.

P5- TRUE COPY OF THE COMPLAINT DATED 15.10.2014 SUBMITTED BEFORE THE SECOND RESPONDENT.

P5(A)- TRUE ENGLISH TRANSLATION OF EXHIBIT P5.

P6- TRUE COPY OF THE RECEIPT ISSUED BY THE SECOND RESPONDENT.

P6(A)- TRUE ENGLISH TRANSLATION OF EXHIBIT P6.

P7- TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE THIRD RESPONDENT WITH COPY TO THE FIRST RESPONDENT.

P7(A)- TRUE ENGLISH TRANSLATION OF EXHIBIT P7.

RESPONDENT(S)' EXHIBITS

EXT.R3(a) : TRUE COPY OF THE REPRESENTATION DATED 3.11.2014 SUBMITTED BEFORE THE DISTRICT LABOUR OFFICER, PALAKKAD

EXT.R3(a)(1) : TRUE ENGLISH TRANSLATION OF EXHIBIT R3(a)

// TRUE COPY //

P.A. TO JUDGE

sou.

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

W.P.(C). No. 32134 of 2014

Dated this the 22nd day of January, 2015

J U D G M E N T

Shaffique, J.

Petitioner is a business concern and second petitioner is its managing partner. The petitioner's complaint is that respondents 3 to 7 are obstructing the functioning of his business concern. It is submitted that second petitioner's son was conducting a petrol pump of Indian Oil Corporation for quite some time. The licence granted by the Indian Oil Corporation has not been renewed. As a result of which operation of the outlet has to be stopped. Respondents 4 to 7 were working in the said establishment. They are now along with the third respondent Union creating obstruction in the functioning of the second petitioner's another business establishment, namely the first petitioner. Though a complaint has been given to the police, no action has been taken to provide adequate protection to prevent the unlawful obstructions by respondents 4 to 7. Hence he has approached this Court seeking the following reliefs :

"i. Issue a writ of mandamus or other appropriate writs,

orders or directions commanding the respondents 1 and 2 to afford adequate and effective protection to the petitioner, his workers, the customers so as to enable him to conduct the business without the same being obstructed by respondents 3 to 7 or their henchmen in the interest of justice.

ii. Issue a writ to declare that the respondents 3 to 7 or their henchmen are not having any authority of law to indulge in strike and demonstration affecting the smooth conduct of the business in the interest of justice.”

2. Counter affidavit has been filed by respondents 4 to 7 inter alia stating that the labour dispute is between second petitioner and workers in relation to loss of employment. A petition has been filed before the District Labour Officer. But the second petitioner, who was actually conducting the business of retail outlet is not participating in the proceedings.

3. Learned counsel for the petitioners submits that though the second petitioner was not involved in the business of retail outlet, still they are willing to co-operate with the conciliation proceedings.

4. Having regard to the aforesaid submission, respondents 3 to 7 cannot obstruct the petitioner from carrying on the business activity, which has nothing to do with the retail outlet business and when they have already approached the District

Labour Officer, they cannot take law into their hands. The learned counsel for respondents 3 to 7 also submits that they are not physically obstructing the petitioners in any manner.

5. Having regard to the aforesaid submission, we are of the view that the remedy of the respondents 3 to 7 is to approach the competent Labour authority and they cannot physically obstruct the petitioners. If there is any such illegal obstruction, police is bound to take appropriate action and maintain law and order, as prayed.

With the above observation the writ petition is disposed of.

Sd/-
**ASHOK BHUSHAN,
ACTING CHIEF JUSTICE**

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

sou.

// True copy //