

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

WP(C).No. 32246 of 2015 (E)

PETITIONERS :

- 1. SHANMUGHA SUNDARAM, AGED 46 YEARS,
S/O. SANTHANA KOUNTAR, 132/G-1, KAMARAJ NAGAR,
L. M. W. POST, PERINAYAKKAM PALAYAM, COIMBATORE
TAMILNADU**
- 2. S. RAMALINGAM, S/O.SANTHANA KOUNTER,
28/A-KACHAR STREET, VELLALLOOR,
COIMBATORE, TAMILNADU**
- 3. KANCHANA
D/O.SANTHANA KOUNTAR, 103, 2ND STREET
SANTHI NAGAR, KASIPALAYAM, ERODE**
- 4. K. P. THOMAS, S/O.POULOSE,
KULANGARA HOUSE, CHITTOOR P.O.,
AGALI, PALAKKAD**

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS :

- 1. ARUMUGHAN ALIAS SAIT
S/O.SANTHANA KOUNTAR, SHOLAYUR, KATHALAKANDI,
MANNARKKAD TALUK, PALAKKAD 678582**
- 2. PAPPAN, D/O.THENAM, HOUSE NO 527, SHOLAYOOR DESOM
SHOLAYOOR AMSOM, SWARNAPIRIVU, MANNARKKAD TALUK 678582**
- 3. P. V. SURESH,
S/O.PARVATHY, VISWA HINDU PARISHAT PRAJARACK
VAYALLOOR , VHOLAYOOR 678581**
- 4. GOPALAN, S/O.PAPPAN, HOUSE NO 527, SHOLAYOOR DESOM
SHOLAYOOR AMSOM, SWARNAPIRIVU, MANNARKKAD TALUK-678582**

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**5. SUB INSPECTOR OF POLICE
SHOLAYOOR 678581**

**6. CIRCLE INSPECTOR OF POLICE
AGALI 678581**

**7. INSPECTOR GENERAL OF POLICE
THRISSUR RANGE, THRISSUR 680001**

R2 & R4 BY SRI.T.SETHUMADHAVAN SENIOR ADVOCATE

R2 & R4 BY ADVS. SRI.PUSHPARAJAN KODOTH

SRI.K.JAYESH MOHANKUMAR

SMT.VANDANA MENON

SMT.N.DEEPA

R5 TO R7 BY SENIOR GOVERNMENT PLEADER SRI. C.R. SYAMKUMAR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1:- TRUE COPY OF THE JUDGMENT DTD 8/10/2007 PASSED BY THE MUNSIFF MAGISTRATE COURT, MANNARKKAD IN OS NO 59/2007.
- P2:- TRUE COPY OF THE COMMON ORDER DTD 17/7/2008 PASSED BY THE MUNSIFF MAGISTRATE COURT, MANNARKKAD IN IA NOS 900/2007 AND 901/2007 IN OS NO 59/2007
- P3:- TRUE COPY OF THE JUDGMENT DTD 4/10/2010 PASSED BY THE MUNSIFF MAGISTRATE COURT, MANNARKKAD IN OS NO 49/2007.
- P4:- TRUE COPY OF THE ORDER DTD 12/12/2012 PASSED BY THIS HONOURABLE COURT IN BA NO 9247/2012.
- P5:- TRUE COPY OF THE JUDGMENT PASSED BY THIS HONOURABLE COURT IN WPC NO 4637 OF 2013 DTD 6/6/2013.
- P6:- TRUE COPY OF THE JUDGMENT PASSED BY THIS HONOURABLE COURT IN OPC 2367 OF 2014 DTD 21/10/2014.
- P7:- TRUE COPY OF THE APPLICATION DTD 11/2/2015 FILED BY THE PETITIONERS 1 TO 3 BEFORE THE MUNSIFF MAGISTRATE COURT, MANNARKKAD AS EA 7/2015 IN EP NO 16/2013 IN OS 59/2007 WITH ORDER SHEET.
- P8:- TRUE COPY OF THE APPLICATION DTD 21/3/2015 FILED BY THE 2ND RESPONDENT BEFORE THE MUNSIFF MAGISTRATE COURT, MANNARKKAD AS EA 12/2015 IN EP 16/2013 IN OS 59/2007 WITH ORDER SHEET.
- P9:- TRUE COPY OF THE JUDGMENT PASSED BY THIS HON'BLE CORUT IN OPC NO 1520/2015 DTD 29/7/2015.
- P10:- TRUE COPY OF THE ORDER DTD 3/9/2015 PASSED MUSIFF MAGISTRATE COURT, MANNARKKAD IN EA 7/2015 IN EP 16/2013 IN OS 59/2007.
- P11:- TRUE COPY OF THE ORDER DTD 3/9/2015 PASSED MUNSIFF MAGISTRATE COURT MANNARKKAD IN EA 12/2015 IN EP 16/2013 IN OS 59/2007.
- P12:- TRUE COPY OF THE DELIVERY WARRANT AND DELIVERY REPORT IN EP 16/2013 IN OS 59/2007 OF THE MUNSIFF MAGISTRATE COURT MANNARKKAD.
- P13:- TRUE COPY OF THE COMPLAINT DTD 27/9/2015 SUBMITTED BY THE PETITIONERS 1 TO 3 BEFORE THE 5TH RESPONDENT.
- P14:- TRUE COPY OF THE COMPLAINT DTD 15/10/2015 SUBMITTED BY THE PETITIONERS 1 TO 3 BEFORE THE 7TH RESPONDENT

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P15:- COPY OF THE AMIN'S REPORT DT 29/1/2015 ALONG WITH ITS ENGLISH TRANSLATION.

P16:- PHOTOGRAPH SHOWING THE NATURE OF THE OBSTRUCTION.

P17:- PETITION TO ACCEPT THE ADDITIONAL DOCUMENTS.

RESPONDENT(S)' EXHIBITS : NIL.

//TREU COPY//

P.A. TO JUDGE

bp

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

W.P.(C)No.32246 of 2015

Dated this the 2nd day of December, 2015.

J U D G M E N T

SHAFFIQUE, J.

The petitioners have approached this Court seeking police protection alleging that, obstruction is being created by respondents 1 to 4 and their men in the matter relating to a property having an extent of 10 cents.

2. According to the petitioners, the property was delivered in their favour as per the orders passed in E.P.No.16/13 in O.S.No.59/07 of the Munsiff Magistrate's court, Mannarkad. It is stated that after taking delivery, the petitioners have demolished the structure that remained in the property. However, the private respondents are not permitting the petitioners to enjoy the property and therefore appropriate directions have to be issued to render necessary police protection.

3. The learned counsel appearing for the 2nd respondent submits that the 2nd respondent has filed a claim petition under Order 21 Rule 58 before the Execution court, which came to be dismissed, against which, an appeal has been filed before the Sub Court, Ottappalam, as A.S.No.73/2015 which is pending consideration. It is also submitted by the learned counsel that the 2nd respondent and her family members are not creating any obstruction as alleged and therefore there is no cause of action for the petitioners to approach this Court.

4. The learned Government Pleader on instruction would submit that the police cannot interfere on the rights of the parties as far as the property is concerned. Since the petitioners are already in possession of the property, the police can only maintain law and order if at all there is any such situation.

5. Having regard to the aforesaid factual situations, we do not think that any direction as sought for is required

to be passed. We only observe that, if there is any law and order situation, by which, any offence is committed or there is any attempt to commit offence, on the complaint of the petitioners, the police shall look into the matter and take necessary action in accordance with law.

With above observations, this writ petition is closed.

Sd/-
ASHOK BHUSHAN,
CHIEF JUSTICE.

Sd/-
A.M.SHAFFIQUE,
JUDGE.

ami/

//True copy//

P.A. to Judge