

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 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 32581 of 2014 (W)

PETITIONER(S):

**K.K. VARGHESE, T.C. 11/121-2,
KIZHAKEPLAVILA VEEDU, PANANVILA,
NALANCHIRA P.O., THIRUVANANTHAPURAM.**

**BY ADVS.SRI.V.G.ARUN,
SRI.T.R.HARIKUMAR.**

RESPONDENT(S):

- 1. THE SUB INSPECTOR OF POLICE,
MEDICAL COLLEGE POLICE STATION,
THIRUVANANTHAPURAM -695 011.**
- 2. THE CIRCLE INSPECTOR OF POLICE,
MEDICAL COLLEGE, THIRUVANANTHAPURAM - 695 011.**
- 3. THE CITY POLICE CHIEF,
THIRUVANANTHAPURAM - 695 001.**
- 4. THE THIRUVANANTHAPURAM CORPORATION,
REPRESENTED BY ITS SECRETARY,
THIRUVANANTHAPURAM- 695 001.**
- 5. THE DISTRICT COLLECTOR,
COLLECTORATE, THIRUVANANTHAPURAM- 695 001.**
- 6. MOHAN KUMAR, S/O. LAKSHMANAN, AGED 62 YEARS,
RESIDING AT GREEN VIEW, S.N. NAGAR,
PARUTHIPPARA, THIRUVANANTHAPURAM-695 011.**
- 7. SASIKUMAR, AGED 66 YEARS,
RESIDING AT VASANTHA HOUSE, S.N. NAGAR,
PARUTHIPPARA, THIRUVANANTHAPURAM - 695 011.**

8. SOBHANAKUMARI, D/O. SARASAMMA, AGED 60 YEARS,
RESIDING AT GREEN VIEW, S.N. NAGAR,
PARUTHIPPARA, THIRUVANANTHAPURAM-695 011.
9. NISHA, D/O. SUBHADRA, AGED 42 YEARS,
RESIDING AT 'HARIMAYAM', S.N. NAGAR,
PARUTHIPPARA, THIRUVANANTHAPURAM-695 011.
10. PRASANNAKUMARI, D/O. LAKSHMI, AGED 62 YEARS,
RESIDING AT SREELET, S.N. NAGAR,
PARUTHIPPARA, THIRUVANANTHAPURAM-695 011.
11. LEKHAKUMARI, D/O. LAKSHMI, AGED 53 YEARS,
RESIDING AT LEKHA BHAVAN, S.N. NAGAR,
PARUTHIPPARA, THIRUVANANTHAPURAM-695 011.
12. LETHAKUMARI, D/O. LAKSHMI, AGED 51 YEARS,
RESIDING AT LEKHA BHAVAN, S.N. NAGAR,
PARUTHIPPARA, THIRUVANANTHAPURAM-695 011.
13. SMITHA, D/O. SASIKUMAR, AGED 38 YEARS,
RESIDING AT 'SARAVANAN', POTTAKUZH, THIRUVANANTHAPURAM - 695 004.
14. HEMA, D/O. SASIKUMAR, AGED 34 YEARS,
RESIDING AT VASANTHA HOUSE, S.N. NAGAR,
PARUTHIPPARA, THIRUVANANTHAPURAM-695 011.

R1 TO R3 & R5 BY SR. GOVT. PLEADER SRI.C.R. SYAM KUMAR.
R4 BY SRI.N.NANDAKUMARA MENON, SENIOR ADVOCATE.
ADV. SRI.P.K.MANOJKUMAR, SC.
R6 TO R14 BY ADVS. SRI.SHAJI P.CHALY,
SRI.R.SANJITH.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT-P1- TRUE COPY OF THE REPORT NO. 79/2013 OF THE VILLAGE OFFICER, ULLOOR VILLAGE DATED 27/02/2013.
- EXHIBIT-P1(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT-P1.
- EXHIBIT-P2- TRUE COPY OF THE REPORT NO. C5. 1119/2013 DATED 22/03/2013 SUBMITTED BY THE ADDITIONAL TAHSILDAR, THIRUVANANTHAPURAM.
- EXHIBIT-P2(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT-P2.
- EXHIBIT-P3- TRUE COPY OF THE COMMUNICATION NO. B 11-27446/2013 DATED 05/04/2013 OF THE 5TH RESPONDENT.
- EXHIBIT-P3(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT-P3
- EXHIBIT-P4- TRUE COPY OF THE ORDER NO. U E1/2266/13 DATED 13/08/2013 ISSUED BY THE 4TH RESPONDENT CORPORATION.
- EXHIBIT-P4(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT-P4.
- EXHIBIT-P5- TRUE COPY OF THE COMMISSION REPORT FILED IN I.A. 5955 OF 2013 IN O.S 1226/2013 OF THE MUNSIF COURT, THIRUVANANTHAPURAM.
- EXHIBIT-P5(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT-P5.
- EXHIBIT-P6- TRUE COPY OF THE ORDER DATED 25/11/2013 IN I.A 5954 OF 2013 IN O.S 1226 OF 2013.
- EXHIBIT-P7- TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 13/12/2013.
- EXHIBIT-P7(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT-P7.
- EXHIBIT-P8- TRUE COPY OF THE RECEIPT DATED 13/12/2013 ISSUED FROM THE OFFICE OF THE 1ST RESPONDENT.
- EXHIBIT-P9- TRUE COPY OF THE ACKNOWLEDGMENT CARD RECEIVED FROM THE OFFICE OF THE 3RD RESPONDENT.
- EXHIBIT-P10- TRUE COPY OF THE AGREEMENT DATED 21/05/2014 ENTERED INTO BETWEEN THE PETITIONER AND THE 1ST RESPONDENT ALONG WITH SKETCH.

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- EXHIBIT-P11- TRUE COPY OF THE JUDGMENT IN WP(C).NO.4022 OF 2014
DATED 11/06/2014.**
- EXHIBIT-P12- TRUE COPY OF THE COMPLAINT SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT DATED 07/07/2014.**
- EXHIBIT-P12(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT-P12.**
- EXHIBIT-P13- TRUE COPY OF THE RECEIPT ISSUED FROM THE OFFICE OF THE
1ST RESPONDENT DATED 14/07/2014.**
- EXHIBIT-P14- TRUE COPY OF THE JUDGMENT IN CON. CASE (C) NO.1059/2014
DATED 10/10/2014.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

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

W.P.C.No.32581 of 2014

Dated this the 24th day of March 2015

J U D G M E N T

Shaffique,J

This writ petition is filed seeking the following reliefs:

“i) to issue a writ of mandamus or any other writ, order or direction, directing respondents 1 to 3 to render adequate and sufficient police protection to the petitioner for demolishing the compound wall on the southern side of his property, in accordance with the direction issued by respondents 4 and 5 as per Exts..P3 and P4 orders and in terms of Ext.P10 settlement, forming part of Ext.P11 judgment.

ii) to issue a writ of mandamus or any other writ direction or order, directing the respondents 1 to 3 render adequate and sufficient police protection to the life of the petitioner and his family members from the hands of respondents 6 to 14 and their men.”

2. The facts involved in this writ petition would disclose that the petitioner had certain item of property for which he requires an access to public road. Petitioner wants to demolish the compound wall on the southern side. When

attempts were made, it was objected by respondents 6 to 14. The issue, however, was ultimately settled by entering into an agreement which is produced as Ext.P10. As per Ext.P10, the parties have decided to settle the issue and the petitioner was permitted to demolish the compound wall on certain conditions. However, according to the petitioner, when the petitioner tried to demolish the compound wall, again it was opposed by private respondents 6 to 14.

3. Learned counsel appearing for respondents 6 to 14 submits that they are ready and willing to comply with the terms of the agreement as reflected in Ext.P10. But, as far as Clause 9 is concerned, they need certain permission from S.N.D.P to remove the statue of Sree Narayana Guru with its platform. They have already applied for the same, but permission has not been obtained, is the cause for the issue now projected by the petitioner.

4. Learned counsel for the petitioner would however submit that the removal of the statue of Sree Narayana

Guru, if not undertaken by the private respondents, it shall be done by the petitioner. Petitioner is also ready and willing to conduct necessary demolition of the compound wall and make other facilities in the presence of any of the officers of Corporation as well.

5. Under such circumstances, we are of the view that if any law and order situation arises when the petitioner undertakes the work of demolition of the compound wall in terms of Ext.P10 agreement, respondents 1 and 2 shall interfere in the matter and maintain necessary law and order to avoid any physical obstruction from party respondents 6 to 14 and their men.

In the result, this writ petition is disposed of as under:

i) Respondents 1 and 2 shall ensure maintenance of law and order in the matter relating to the petitioner demolishing compound wall as reflected in Ext.P10 or when he removes the statue of Sree Narayana Guru to an ideal place as stated in the sketch appended to the agreement.

ii) This shall be done in the presence of an Officer nominated by the Secretary, Corporation of Thiruvananthapuram.

(sd/-)

**(ASHOK BHUSHAN,
ACTING CHIEF JUSTICE)**

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

