

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 1936

WP(C).No. 32599 of 2014 (Y)

PETITIONER :

PATHRIKA HOMES & ESTATES PVT.LTD
TC 4/2112 (3) KURVANKONAM
THIRUVANANTHAPURAM (REPRESENTED BY ITS MANAGING DIRECTOR
ABHILASH A.J. NAIR, AGED 32 YEARS, S/O RAJMOHAN NAIR)

BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN

RESPONDENTS :

1. STATE OF KERALA
RERPRESENTED BY ITS SECRETARY, HOME DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695001
2. THE STATE POLICE CHIEF,
OFFICE OF THE STATE POLICE CHIEF
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM 695001
3. COMMISSIONER OF POLICE,
OFFICE OF THE CITY POLICE COMMISSIONER
THIRUVANANTHAPURAM 695001
4. CIRCLE INSPECTOR OF POLICE,
MEDICAL COLLEGE POLICE STATION
THIRUVANANTHAPURAM 695001
5. THE SUB INSPECTOR OF POLICE,
THUMBA POLICE STATION, THIRUVANANTHAPURAM 695001
6. THE SECRETARY,
TRIVANDRUM DISTRICT CONSTRUCTION
WORKERS' UNION C.I.TU, KARIMANAL, ATTIPRA
THIRUVANANTHAPURAM 695583
7. THE SECRETARY
KERALA CONSTRUCTION WORKERS'
WELFARE CONGRESS (KCWC) INTUC KARIMANAL
ATTIPRA VILLAGE, THIRUVANANTHAPURAM

8. PREMPAL, NEDUMAN VEEDU, POUNDUKADAVU, VALIYAVILA P.O.
KAZHAKUTTAM, THIRUVANANTHAPURAM 695006
9. SREEKUMAR, THOPPIL VEEDU, KUZHIVILA, KARIMANAL P.O.
THIRUVANANTHAPURAM 695583
10. ANIKUTTAN, THOPPIL VEEDU, KUZHIVILA, KARIMANAL P.O.
THIRUVANANTHAPURAM 695583 [DELETED]
11. RAJESH, KUZHIVALA VEEDU, KARIMANAL P.O
THIRUVANANTHAPURAM 695583 [DELETED]
[RESPONDENTS R10 AND R11 ARE DELETED FROM THE PARTY
ARRAY AS PER ORDER DATED 20.12.2014 IN IA 17224/2014].

R1 TO R5 BY SR.GOVERNMENT PLEADER, SRI. C.R. SYAM KUMAR
R6,R7 & R9 BY ADV. SRI.V.C.SARATH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1 TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE CHAIRMAN, HEADLOAD WORKERS WELFARE BOARD, THIRUVANANTHAPURAM.

EXHIBIT P2 TRUE COPY OF TGHE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE 4TH AND 5TH RESPONDENT ALONG WITH ENGLISH TRANSLATION OF EXT P2.

EXHIBIT P3 TRUE COPY OF THE ACKNOWLEDGEMENT RECEIVED FROM 5TH RESPONDENT.

EXHIBIT P4 TRUE COPY OF THE NOTICE DATED 02-12-2014 ISSUED BY THE 6TH RESPONDENT ALONG WITH ENGLISH TRANSLATION.

EXHIBIT P5 TRUE COPY OF THE NOTICE ISSUED BY THE 7TH RESPONDENT DATED 02-12-2014 ALONG WITH ENGLISH TRANSLATION.

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

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

W.P.(C) No. 32599 OF 2014

Dated this the 6th day of January, 2015

JUDGMENT

Shaffique, J.

The petitioner has approached this Court seeking for police protection to the life of the petitioner and his employees to carry on certain construction works.

2. The petitioner being a company engaged in the construction of Villas and Flats has taken up certain construction activities at Karimanal in Attipra Village, Thiruvananthapuram District. According to him, he has his own skilled labourers for doing the construction work and the work is being supervised by Engineers and Project Manager. As far as the loading and unloading work is concerned, the same is entrusted to the headload workers registered in the area. There had been some issues with reference to the amounts demanded by the headload workers, which was taken up before the Headload Workers Welfare Board District Committee and the matter is pending consideration. Petitioner alleges that, in the meantime, respondents 6 to 9 and their

men have obstructed the work carried on at the site, demanding that the skilled works also should be entrusted to the members of 6th and 7th respondent Unions. The work was physically obstructed and the petitioner and his men were attacked on 14.11.2014. They were also threatened that further construction work would not be permitted, unless the skilled works are entrusted to members of respondents 6 and 7. Petitioner had submitted a complaint before Police and since no action has been taken in the matter, this writ petition is filed. According to the petitioner, the work is in a standstill since 25.11.2014.

3. Counter affidavit has been filed by respondents 6, 7 and 9 *inter alia* stating that they have not created any obstruction to the work being carried on by the petitioner. But they have only demanded that their members also should be engaged in the work being undertaken by the petitioner. They have further stated that since the construction activity involves loading and unloading, the petitioner was requested to employ members of 6th and 7th respondent Unions as they are the local registered headload workers.

4. Learned Government Pleader on instructions would submit that on receiving the complaint from the petitioner, the parties were summoned. Since the matter is pending consideration before this Court, further action was not taken in the matter.

5. Having regard to the aforesaid factual situation, it cannot be disputed that as far as the loading and unloading in a Scheme covered area is concerned, the same can be entrusted only to the registered workers of the area. If there is any issue in relation to the rates demanded, such matters have to be taken up before competent authorities who is entitled to resolve the same. So far as the skilled works are concerned, it is always open for the petitioner to engage his own workers. Respondents 6 to 9 have no right to demand that skilled works should be entrusted to them. In such circumstances, if there is any law and order situation in the matter relating to the work being carried on by the petitioner, it is always the duty of the Police to ensure that law and order is maintained.

6. Under these circumstances, the Writ Petition is disposed of as under:

Respondents 4 and 5 shall ensure that no unlawful obstruction is being created by party respondents 6 to 9 or their men in the matter of carrying out the construction activities by the petitioner and further shall ensure that law and order situation is maintained at the site of the petitioner.

**Ashok Bhushan,
Acting Chief Justice.**

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

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